

No. 12324

United States
Court of Appeals
for the Ninth Circuit.

AUDREY CUTTING and SYLVIA A. HENDER-
SON,

Appellant,

vs.

RAY BULLERDICK, et al,

Appellees.

Transcript of Record
In Three Volumes
Volume II
(Pages 117 to 238)

Appeal from the District Court for the
Territory of Alaska,
Third Division

FILED

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Appeal from the District Court for the
Territory of Alaska,
Third Division

In the District Court for the Territory of Alaska
Third Division

No. A-5088

TED VAN THIEL, PATSY VAN THIEL, E. P. CARTEE, JEAN CARTEE, R. C. REEVE, and JANICE REEVE, Co-partners under the firm name and style of KENNEDY HARDWARE, and GENE BRADY, Co-partners under the firm name and style of BRADY'S FLOOR COVERING, and

E. V. FRITTS, WILLIAM J. WALLACE, and EINER G. NELSON, Co-partners under the firm name and style of ALASKA PAINT AND GLASS CO., and

CITY ELECTRIC OF ANCHORAGE, INC., a corporation,

Plaintiffs,

vs.

RALPH R. THOMAS, AUDREY CUTTING and RUSSELL W. SMITH,

Defendants.

COMPLAINT

Come now the plaintiffs in the above entitled action, and complaining against the defendants herein, for their respective causes of action severally allege as follows:

First Cause of Action:

The plaintiffs, Ted Van Thiel, Patsy Van Thiel,

E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, Co-partners under the firm name and style of Brady's Floor Covering, for cause of action allege:

I.

That at all times herein mentioned the plaintiffs, Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve were co-partners under the firm name and style of Kennedy Hardware.

II.

That at all times herein mentioned the plaintiffs named in the preceding paragraph and the plaintiff Gene Brady were co-partners under the firm name and style of Brady's Floor Covering.

III.

That at all times herein mentioned the defendant Ralph Russell Thomas was and ever since has been and now is the owner of that certain real property situate in the City of Anchorage, Alaska; more particularly described as follows:

Lot Two (2) in Block Thirty-seven D (37 D) of the South Addition to the City of Anchorage according to the official map and plat thereof on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

IV.

That during all times herein mentioned the defendant Audrey Cutting was and ever since has been and now is the reputed owner of the above described premises and has or claims to have some right, title or interest therein, the nature of which is unknown to these plaintiffs, and therefore not stated, but which plaintiffs allege is subject to the lien of plaintiffs hereinafter set forth.

V.

That during the period beginning June 2, 1948 and ending June 8, 1948, these plaintiffs furnished defendant Russell W. Smith had charge of and was engaged in the construction of a residence building on the premises hereinbefore described under a contract with the defendant Audrey Cutting, the nature and terms of which are unknown to plaintiffs and therefore are not stated; that said construction was with the knowledge, consent and at the instance of the defendant, Ralph Russell Thomas.

VI.

That during the period beginning June 2, 1949 and ending June 8, 1948, these plaintiffs furnished material and labor in the construction of the afore-said building for and at the request of the said Russell W. Smith at the agreed price and of the reasonable value of Four Hundred Seventy-Four and 41/100 Dollars (\$474.41).

That said material was used and said labor performed in covering the floors of said building and

the sink top in the kitchen thereof with linoleum, which became a permanent part of said building.

VII.

That said Russell W. Smith has not paid the sum so due, as aforesaid, to plaintiffs, nor any part thereof, although frequently requested so to do and the same is now due and owing from said defendant to plaintiffs.

VIII.

That the whole of the real property hereinabove described is required for the convenient use and occupation of the residence building hereinbefore mentioned.

IX.

That by the reason of the premises, plaintiffs acquired a lien upon the premises hereinbefore described for the sum due them, as aforesaid, and for the purpose of securing and perfecting their said lien, plaintiffs on the 21st day of July, 1948, filed for record in the office of the Recorder for the Anchorage Recording Precinct, Territory of Alaska, a claim containing a true statement of their demand, duly verified, after deducting all just credits and offsets, with the name of the owner and reputed owner, and also the name of the person to whom they furnished the material and labor and also a description of the property to be charged with said lien, sufficient for identification; that said Claim of Lien was duly recorded in Book 70 of City Records of said Recording Precinct at page 287: that a true

and correct copy of said Claim of Lien is hereunto annexed, marked "Exhibit A" and made a part of this complaint.

That plaintiffs paid for filing and recording said Claim of Lien the sum of \$4.05.

X.

That the sum of Three Hundred Fifty Dollars (\$350.00) is a reasonable amount to be allowed by the Court as Attorney's fees for the prosecution of this suit.

Second Cause of Action:

The plaintiffs, E. V. Fritts, William J. Wallace, and Einer G. Nelson, co-partners under the firm name and style of Alaska Paint and Glass Co., for cause of action allege:

I.

That at all times herein mentioned, the plaintiffs, E. V. Fritts, William J. Wallace, and Einer G. Nelson were co-partners under the firm name and style of Alaska Paint and Glass Co.

II.

That at all times herein mentioned the defendant Ralph Russell Thomas was and ever since has been and now is the owner of that certain real property situate in the City of Anchorage, Alaska, more particularly described as follows:

Lot Two (2) in Block Thirty-seven D (37D) of the South Addition to the City of Anchorage

according to the official map and plat thereof on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

III.

That during all the times herein mentioned the defendant Audrey Cutting was and ever since has been and now is the reputed owner of the above described premises and has or claims to have some right, title or interest therein, the nature of which is unknown to these plaintiffs, and therefore not stated, but which plaintiffs allege is subject to the lien of plaintiffs hereinafter set forth.

IV.

That during all the times hereinafter in the next paragraph of this cause of action mentioned, the defendant Russell W. Smith had charge of and was engaged in the construction of a residence building on the premises hereinbefore described under a contract with the defendant Audrey Cutting, the nature and terms of which are unknown to plaintiffs and therefore not stated; that said construction was with the knowledge, consent and at the instance of the defendant, Ralph Russell Thomas.

V.

That during the period beginning June 1, 1948 and ending June 21, 1948, plaintiffs furnished material and labor in the construction of the aforesaid building for and at the request of the said

Russell W. Smith at the contract price and of the reasonable value of Seven Hundred Dollars (\$700.00), for which the said Russell W. Smith promised and agreed to pay.

That said material and labor consisted of Perfa-taping and heavy coating the walls and ceilings and painting the interior woodwork and the exterior of the said building, all of which was done in the original construction of said building and became a permanent part thereof.

VI.

That said Russell W. Smith has not paid the sum so due, as aforesaid, to plaintiffs; nor any part thereof, although frequently requested so to do and the same is now due and owing from said defendant to plaintiffs.

VII.

That the whole of the real property hereinabove described is required for the convenient use and occupation of the residence building hereinbefore mentioned.

VIII.

That by reason of the premises, plaintiffs acquired a lien upon the premises hereinbefore described for the sum due them, as aforesaid, and for the purpose of securing and perfecting their said lien, plaintiffs on the 21st day of July, 1948, filed for record in the office of the Recorder for the Anchorage Recording Precinct, Territory of Alaska, a claim containing a true statement of their demand, duly verified, after deducting all just credits and offsets, with the name

of the owner and reputed owner, and also the name of the person to whom they furnished the material and labor and also a description of the property to be charged with said lien, sufficient for identification; that said Claim of Lien was duly recorded in Book 70 of City Records of said Recording Precinct at page 286; that a true and correct copy of said claim of lien is hereto attached, marked "Exhibit B" and made a part of this Complaint.

That plaintiffs paid for filing and recording said Claim of Lien the sum of \$3.40.

IX.

That the sum of Three Hundred Fifty Dollars (\$350.00) is a reasonable amount to be allowed by the Court as attorney's fees for the prosecution of this suit.

Third Cause of Action:

The plaintiff, City Electric of Anchorage, Inc., a corporation, for cause of action, alleges:

I.

That plaintiff is a corporation organized and existing under and by virtue of the laws of the Territory of Alaska, and doing business in Anchorage, Alaska, and has paid its annual corporation tax last due.

II.

That at all times herein mentioned the defendant Ralph Russell Thomas was and ever since has been and now is the owner of that certain real property

situate in the City of Anchorage, Alaska, more particularly described as follows:

Lot Two (2) in Block Thirty-seven D (37D) of the South Addition to the City of Anchorage according to the official map and plat thereof on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

III.

That during all the times herein mentioned the defendant Audrey Cutting was and ever since has been and now is the reputed owner of the above described premises and has or claims to have some right, title or interest therein, the nature of which is unknown to these plaintiffs, and therefore not stated, but which plaintiff alleges is subject to the lien of plaintiff hereinafter set forth.

IV.

That during all the times hereinafter in the next paragraph of this cause of action mentioned, the defendant Russell W. Smith had charge of and was engaged in the construction of a residence building on the premises hereinbefore described under a contract with the defendant Audrey Cutting, the nature and terms of which are unknown to plaintiff and therefore not stated; that said construction was with the knowledge, consent and at the instance of the defendant, Ralph Russell Thomas.

V.

That during the period beginning April 28, 1948 and ending June 23, 1948, this plaintiff furnished material and labor in the construction of the aforesaid building for and at the request of the said Russell W. Smith at the agreed price and of the reasonable value of Four Hundred Seventy-three and 99/100 Dollars (\$473.99), for which the said Russell W. Smith promised and agreed to pay.

That said labor and material consisted of repairing tools, used in said construction, installing temporary wiring in said building for the use of electricity necessary in the construction thereof, and installing permanent wiring for use in said building as a residence, all of which was done in the original construction of said building and became a permanent part thereof.

VI.

That said Russell W. Smith has not paid the sum so due, as aforesaid, to plaintiff, nor any part thereof, although frequently requested so to do, and the same is now due and owing from said defendant to plaintiff.

VII.

That the whole of the real property hereinabove described is required for the convenient use and occupation of the residence building hereinbefore mentioned.

VIII.

That by reason of the premises, plaintiff acquired a lien upon the premises hereinbefore described for

the sum due them, as aforesaid, and for the purpose of securing and perfecting its said lien, plaintiff on the 23rd day of July, 1948, filed for record in the office of the Recorder for the Anchorage Recording Precinct, Territory of Alaska, a claim containing a true statement of its demand, duly verified, after deducting all just credits and offsets, with the name of the owner and reputed owner, and also the name of the person to whom it furnished the material and labor and also a description of the property to be charged with said lien, sufficient for identification; that said Claim of Lien was duly recorded in Book 70 of City Records of said Recording Precinct at page 286; that a true and correct copy of said claim of lien is hereto annexed, marked "Exhibit C" and made a part of this Complaint.

That plaintiff paid for filing and recording said Claim of Lien the sum of \$2.85.

IX.

That the sum of Three Hundred Fifty Dollars (\$350.00) is a reasonable amount to be allowed by the Court as attorney's fees in the prosecution of this suit.

Wherefore, the plaintiffs pray:

1. That the Court decree that the plaintiffs, and each of them, have liens upon the said premises herein described, including the building thereon, for the sums respectively due them, as alleged in the Complaint, with interest according to law, and costs

and disbursements, including attorney's fees, and expense of filing and recording said Claims of Lien, and

2. That all of said real property and the building thereon be sold under order and decree of this Court according to law and the proceeds thereof applied to the payment of the sums found due to plaintiffs, as aforesaid; that the plaintiffs, or any of them, may become purchasers at said sale, and that said plaintiffs may have such other and further relief as to the Court may seem equitable in the premises.

/s/ GEORGE B. GRIGSBY
Attorney for Plaintiffs

Duly verified—Gene Brady and William J. Wallace.

Duly verified—Leslie Larson for City Electric of Anchorage Inc.

Exhibit "A"

TED VAN THIEL, PATSY VAN THIEL, E. P. CARTEE, JEAN CARTEE, R. C. REEVE, and JANICE REEVE, Co-partners under the firm name and style of KENNEDY HARDWARE, and GENE BRADY, Co-partners under the firm name and style of BRADY'S FLOOR COVERING,

Claimant,

vs.

AUDREY CUTTING, RUSSELL W. SMITH, RALPH RUSSELL THOMAS, AND LOT TWO (2) IN BLOCK THIRTY-SEVEN D (37D) OF THE SOUTH ADDITION TO THE TOWNSITE OF ANCHORAGE.

CLAIM OF LIEN

Notice is hereby given that the above-named claimants claim a lien upon the following described premises situate in the City of Anchorage, to wit:

Lot Two (2) in Block Thirty-seven D (37D) of the South Addition to the City of Anchorage according to the official map and plat thereof on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

That the owners and reputed owners of the above

described premises are Ralph Russell Thomas and Audrey Cutting.

That the residence building now on said premises was constructed by the above named Russell W. Smith under a contract with the said Audrey Cutting, with the knowledge and consent of the said Ralph Russell Thomas, and was under construction during all the times hereinafter mentioned.

That during the period beginning June 2d, 1948, and ending June 8th, 1948, the above named claimants furnished material and labor in the construction of said building for and at the request of the said Russell W. Smith and for which he promised and agreed to pay, at the agreed price and of the reasonable value, the sum of \$474.41:

That said material and labor was used and performed in covering the floors of said building and the sink top in the kitchen thereof with linoleum, which became a permanent part of said building, an itemized account of which labor and services is as follows:

6 feet cap strip	@ .20	\$.20
3 sq. yds. Standard Grade Linoleum	@ 3.00	9.00
1 length metal90
63 $\frac{2}{3}$ sq. yds. heavy gauge Linoleum installed.....	@ 5.50	350.13
141 $\frac{1}{3}$ sq. yds. installed	@ 4.50	64.49
16 feet cove stick10	1.60
12 feet face metal	@ .30	3.60
24 feet cap strip	@ .20	4.80
8 hours labor on sink top	@ 4.25	34.00
		<hr/>
		\$469.72
1% tax		4.69
		<hr/>
		\$474.41

That there is now due and owing from the said Russell W. Smith to claimants for the material and labor so furnished as aforesaid, after deducting all just credits and off-sets, the sum of \$474.41.

Wherefore, these claimants claim a lien upon the aforementioned premises and the residence building thereon for the material and labor furnished as aforesaid in the sum of \$474.41.

GENE BRADY.

Duly verified.

EXHIBIT "B"

E. V. FRITTS, WILLIAM J. WALLACE and
EINER G. NELSON, co-partners under the
firm name and style of ALASKA PAINT AND
GLASS CO.,

Claimants,

vs.

AUDREY CUTTING, RUSSELL W. SMITH,
RALPH RUSSELL THOMAS, AND LOT
TWO (2) IN BLOCK THIRTY-SEVEN D
(37-D) OF THE SOUTH ADDITION TO
THE TOWNSITE OF ANCHORAGE.

CLAIM OF LIEN

Notice is hereby given that the above-named claimants claim a lien upon the following described premises situate in the City of Anchorage, Alaska, to wit:

Lot Two (2) in Block Thirty-seven D (37 D) of the South Addition to the City of Anchorage according to the official map and plat thereof on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

That the owners and reputed owners of the above described premises are Ralph Russell Thomas and Audrey Cutting.

That the residence building now on said premises was constructed by the above named Russell W. Smith under a contract with the said Audrey Cutting, with the knowledge and consent of the said Ralph Russell Thomas, and was under construction during all the times hereinafter mentioned.

That this lien is claimed for labor and material furnished in the construction of said building by the above named claimants during the period beginning June 1st, 1948, and ending June 21st, 1948, consisting of Perfa-taping and heavy coating the walls and ceilings, and painting the interior woodwork and the exterior of said building, all of which was done in the original construction of said building and became a permanent part thereof.

That said labor and material were furnished for and at the request of the said Russell W. Smith at the contract price of \$700.00 which he promised and agreed to pay, and there is now due and owing to

the claimants from the said Russell W. Smith, after deducting all just credits and off-sets, said sum of \$700.00.

Wherefore, the above named claimants claim a lien upon the afore-described premises for the sum of \$700.00.

WILLIAM J. WALLACE.

Duly verified.

EXHIBIT "C"

CITY ELECTRIC OF ANCHORAGE, INC., a
corporation,

Claimant,

vs.

AUDREY CUTTING, RUSSELL W. SMITH,
RALPH RUSSELL THOMAS, AND LOT
TWO (2) IN BLOCK THIRTY-SEVEN D
(37-D) OF THE SOUTH ADDITION TO
THE TOWNSITE OF ANCHORAGE.

CLAIM OF LIEN

Notice is hereby given that the above-named claimants claim a lien upon the following described premises situate in the City of Anchorage, Alaska, to wit:

Lot Two (2) in Block Thirty-seven D (37 D) of the South Addition to the City of Anchorage according to the official map and plat thereof

on file in the office of the recorder for the precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

That the owners and reputed owners of the above described premises are Ralph Russell Thomas and Audrey Cutting.

That the residence building now on said premises was constructed by the above named Russell W. Smith under a contract with the said Audrey Cutting, with the knowledge and consent of the said Ralph Russell Thomas, and was under construction during all the times hereinafter mentioned.

That this lien is claimed for labor and material furnished by the above named claimant in the construction of said building during the period beginning April 28, 1948, and ending June 23, 1948, for and at the request of the said Russell W. Smith and for which he promised and agreed to pay at the agreed price and of the reasonable value, the sum of \$473.99.

That said labor and material consisted of repairing tools used in said construction, installing temporary wiring in said building for the use of electricity necessary in the construction thereof, and installing permanent wiring for use in said building as a residence. That an itemized account of said labor and material is as follows:

April 28, 1948,		
Repairs on Black & Decker Saw	\$	8.98
June 8, 1948,		
Repairs on Black & Decker Saw		13.28
June 18, 1948,		
Repairs on Black & Decker Holding Gun		23.21
		<hr/>
		\$ 45.47
May 10, 1948,		
Wiring for new temporary service, material..	\$	35.65
3½ hours labor @ 4.25 per hour		14.90
		<hr/>
		50.55
May 20, 1948, to June 23, 1948,		
Permanent house wiring,		
Material	\$	167.53
Labor		206.19
		<hr/>
		373.72
1% Tax on temporary and permanent wiring.....		4.25
		<hr/>
Total.....		\$473.99

That there is now due and owing from the said Russell W. Smith to claimant for the labor and material so furnished, as aforesaid, after deducting all just credits and off-sets, the sum of \$473.99.

Wherefore, this claimant claims a lien upon the aforementioned premises and the residence building thereon for the labor and materials so furnished, as aforesaid, in the sum of \$473.99.

CITY OF ELECTRIC OF
ANCHORAGE, INC.

By /s/ LESLIE LARSON,
President.

Duly verified.

[Endorsed]: Filed July 24, 1948.

[Title of District Court and Cause.]

No. A-5088

APPEARANCE

Comes now Audrey Cutting, the defendant in the above entitled cause, and makes this her appearance, in this action.

/s/ AUDREY CUTTING.

Duly verified.

Receipt of copy acknowledged.

[Endorsed]: Filed July 31, 1948.

[Title of District Court and Causes.]

No. A-5088

SUMMONS

The President of the United States of America,
Greeting: To the Above-named Defendants:

You Are Hereby Required to appear in the District Court for the Territory of Alaska, Third Division, within thirty days after the date of service of this summons upon you, and answer the complaint of the above-named plaintiffs, a copy of which complaint is herewith delivered to you; and unless you so appear and answer, the plaintiffs will take judgment against you for want thereof, and will apply to the Court for the relief demanded in said complaint.

Witness, the Hon. Anthony J. Dimond, Judge of said Court, this 24th day of July, in the year of our Lord one thousand nine hundred and Forty-eight.

M. E. S. BRUNELLE,
Clerk.

[Seal] By /s/ VIRGINIA OLSON,
Deputy Clerk.

Receipt of copy acknowledged.

[Endorsed]: Filed August 4, 1948.

[Title of District Court and Cause.]

No. A-5088

NOTICE OF APPEARANCE

To: George Grigsby, Attorney for Plaintiffs.

Please Take Notice that we have been retained by and hereby appear for the above-named defendants Russell W. Smith in the above-entitled cause.

CUDDY & KAY.

WENDELL P. KAY,
Of Attorneys for
Defendants.

[Endorsed]: Filed August 5, 1948.

[Title of District Court and Cause.]

No. A-5088

ANSWER

Comes now the defendant, Audrey Cutting, and answering the first cause of action set forth in plaintiff's complaint, for herself and not for any other defendant, admits and denies as follows:

I.

Admits that she is the owner of that certain real property situate in the City of Anchorage, Alaska, and more particularly described as follows:

Lot Two (2) in Block Thirty-seven D (37 D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file in the office of the Recorder for the Precinct of Anchorage, Third Division, Territory of Alaska,

but denies that either she or anyone authorized by her as agent employed the plaintiff in any capacity whatsoever to perform services and/or furnish materials on the subject real property or to any building located thereon.

II.

Denies that the plaintiff has acquired a lien against said real property or any building thereon.

III.

Denies that the sum alleged in paragraph VI of plaintiffs' first cause of action, i.e. \$474.41, or any

other sum, is now due and owing from the defendant to the plaintiff.

Answer to Second Cause of Action :

Comes now the defendant, Audrey Cutting, and answering the second cause of action set forth in plaintiffs' complaint, for herself and not for any other defendant, admits and denies as follows:

I.

Defendant reaffirms, realleges and adopts as part of her answer to the second cause of action all of the allegations set forth in paragraphs I, II and III of her answer to the first cause of action.

II.

Denies that the sum alleged in paragraph V of the second cause of action, i.e., \$700.00, or any other sum is now due and owing from the defendant to the plaintiff.

Answer to Third Cause of Action :

Comes now the defendant, Audrey Cutting, and answering the third cause of action set forth in plaintiffs' complaint, for herself and not for any other defendant, admits and denies as follows:

I.

Defendant reaffirms, realleges, and adopts as part of her answer to the third cause of action all of the allegations set forth in paragraphs I, II, and III of her answer to plaintiff's first cause of action.

II.

Denies that the sum alleged in paragraph V, i.e. \$473.99, or any other sum, is now due and owing from the defendant to the plaintiff.

Wherefore, defendant, having fully answered the complaint filed by plaintiff, pray this Honorable Court to dismiss the same with costs assessed to the plaintiffs.

HAROLD J. BUTCHER,
Attorney for Defendant.

Duly verified.

Receipt of copy acknowledged.

[Endorsed]: Filed September 9, 1948.

[Title of District Court and Cause.]

No. A-5088

NOTICE OF MOTION FOR LEAVE TO INTERVENE AND MAKE ADDITIONAL PARTIES DEFENDANTS.

To: Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, Co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, Co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace and Einer G. Nelson, Co-partners under the firm name and style of Alaska Paint & Glass Co., and City Electric of Anchorage, Inc., a corporation, and to George Grigsby, their attorney; Ralph R. Thomas, Audrey Cutting and Russell W. Smith; Audrey Cutting, as the Mother and Next Friend of Sylvia A. Henderson, a Minor; Ketchikan Spruce Mills, Inc., a corporation; Alaskan Plumbing & Heating Company, a corporation; Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, Co-partners doing business under the firm name and style of Wolfe Hardware & Furniture:

You Will Please Take Notice that on Friday, the 29th day of October, 1948, at 2 o'clock p.m. of said day, or as soon thereafter as counsel can be heard, at the District Court for the Third Judicial District of the Territory of Alaska, at Anchorage, Alaska,

the petitioners, Arthur F. Waldron and Joseph A. Columbus, co-partners doing business under the firm name and style of Anchorage Sand and Gravel Company, will move the Court for leave to intervene and file their Complaint in Intervention in the above entitled cause, and to make Audrey Cutting, as the Mother and Next Friend of Sylvia A. Henderson, a Minor, Ketchikan Spruce Mills, Inc., a corporation, Alaskan Plumbing & Heating Company, a corporation, Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, Co-partners doing business under the firm name and style of Wolfe Hardware & Furniture, additional defendants in the above entitled action, on the grounds that the petitioners are lien claimants against the above named defendants, and the said Audrey Cutting, as Mother and Next Friend of Sylvia A. Henderson, a Minor, Ketchikan Spruce Mills, Inc., a corporation, Alaskan Plumbing & Heating Company, a corporation, Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners doing business under the firm name and style of Wolfe Hardware & Furniture, also claim some right, title and interest in the issues involved in this cause of action, and your petitioners believe that the ends of justice will best be served by all parties named herein if said Motion is granted.

Said motion will be made and based upon this notice, and upon the pleadings, papers, records and files in this action.

Dated this 21st day of October, 1948.

/s/ J. L. McCARREY, JR.,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Title of District Court and Cause.]

No. A-5088

PETITION TO INTERVENE

To: The Honorable Anthony J. Dimond, Judge of the District Court, Third Judicial Division, Territory of Alaska.

The Petition of Ketchikan Spruce Mills, Inc., a Corporation, and Alaskan Plumbing and Heating Company, Inc., a Corporation, of Anchorage, Alaska, respectfully shows:

1. That the above named plaintiffs have filed a complaint against the above-named defendants praying that their claim of lien against Lot Two (2), in Block Thirty-Seven "D" (37 D), of the South Addition to the City of Anchorage, according to the map and plat thereof on file in office of U. S. Commissioner, ex-Officio Precinct Recorder for Anchorage, Territory of Alaska, together with the residence building thereon situated, be foreclosed; That the petitioners herein claim liens upon the same property on account of materials delivered thereon; that their claims of lien have been filed with the recorder for the Anchorage Precinct, within the time and manner prescribed by law;

2. That a copy of the complaint in intervention which petitioners ask leave to file is attached hereto and marked Exhibit "A."

Wherefore, your petitioners ask leave to intervene in this action as against both plaintiffs and defendants in this action and that they be granted leave to file the proposed complaint in intervention and for such other and further relief as to the Court may seem proper.

Dated at Anchorage, Alaska, this 28th day of October, 1948.

CUDDY & KAY

/s/ WENDELL P. KAY

Attorneys for Petitioners.

Duly verified.

Receipt of copy acknowledged.

[Endorsed]: Filed November 2, 1948.

[Title of District Court and Cause.]

No. A-5088

ORDER TO SHOW CAUSE WHY PETITION
FOR INTERVENTION SHOULD NOT BE
GRANTED

Upon the reading and filing of petition of Ketchikan Spruce Mills, Inc., a Corporation, and Alaskan Plumbing and Heating Company, Inc., a Corporation, praying to intervene as parties in this action and good cause appearing therefor, it is

Hereby ordered, that the above-named plaintiffs and defendants show cause before me in the District Court for the Third Division, Territory of Alaska, in the City of Anchorage, Alaska, on the 5th day of November, 1948, at 3:00 o'clock, p.m., of that day, or as soon thereafter as Counsel can be heard, why the prayer of said petitioners should not be granted.

It is Further Ordered that until the determination of this motion all proceedings herein on the part of the plaintiffs and defendants be stayed.

It is Further Ordered that copies of this Order and said Petition be served upon the above named plaintiffs and defendants at least one day before the time fixed for showing cause.

Dated this 2d day of November, 1948, at Anchorage, Alaska,

/s/ ANTHONY J. DIMOND

Judge of the District Court, Third Division, Territory of Alaska.

Entered Nov. 2, 1948.

Receipt of copy acknowledged.

[Endorsed]: Filed November 2, 1948.

[Title of District Court and Causes.]

No. A-5087

Nos. A-5087 and A-5088

MOTION FOR LEAVE TO INTERVENE AND
MAKE ADDITIONAL PARTIES DEFEND-
ANTS

Based upon the written notice of motion for leave to intervene and make additional parties defendants heretofore filed in the above-entitled Court on the . . . day of October, 1948, the petitioners, Arthur F. Waldron and Joseph A. Columbus, Copartners doing business under the firm name and style of Anchorage Sand and Gravel Company, by and through their attorney, J. L. McCarry, Jr., do hereby move the Honorable Court for leave to intervene and file their complaint in intervention in the above-entitled cause of action, namely, A-5087 and A-5088, and further move the Honorable Court for leave to make Sylvia A. Henderson, a minor, Ketchikan Spruce Mills, Inc., a corporation, Alaskan Plumbing & Heating Company, a corporation, Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, Co-partners doing business under the firm name and style of Wolfe Hardware & Furniture, additional defendants in the above-entitled action, on the grounds that the defendants have claims either for labor or material furnished in the construction of that certain dwelling house con-

structed upon Lot Two (2) of Block Thirty-Seven "D" (37-D) of the South Addition to the Original Townsite of Anchorage, Alaska, and your petitioner believes that the end of justice will best be served and the final determination of the matter be earlier obtained by having all of the interests of the various claimants determined in one hearing, and said motion is based upon the pleadings, papers, records and files in this action.

Dated this 2nd day of November, 1948.

/s/ J. L. McCARREY, JR.

Attorney for Petitioners

[Endorsed]: Filed November 8, 1948.

[Title of District Court and Cause.]

No. A-5088

NOTICE OF WITHDRAWAL

Comes now, Cuddy & Kay, and withdraws as Counsel for the above-named Defendant, Russell W. Smith, on the ground that the said Russell W. Smith, is now bankrupt, and the trustee for the bankrupt estate is adequately represented by Counsel.

CUDDY & KAY

By /s/ WENDELL P. KAY.

Dated at Anchorage, Alaska, this 9th day of November, 1948.

[Endorsed]: Filed November 10, 1948.

[Title of District Court and Causes.]

No. A-5087

No. A-5088

Nos. A-5087 and A-5088

ORDER GRANTING LEAVE TO INTERVENE

Based upon the written motion for leave to intervene filed by Arthur F. Waldron and Joseph A. Columbus, Co-partners doing business under the firm name and style of Anchorage Sand and Gavel Company, by and through their attorney, J. L. McCarrey, Jr., requesting leave to intervene in the cases of Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell and William Besser, Plaintiffs, vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, Defendants; and Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, Co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, Co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace and Einer G. Nelson, Co-partners under the firm name and style of Alaska Paint & Glass Co. and City Electric of Anchorage, Inc., a corporation, Plaintiffs, vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, Defendants, and upon oral argument by the counsel representing various lien claimants interested in the subject matter of the causes of action now pending in the above-entitled causes of action, as aforesaid and the Court being fully advised in the premises,

It is Hereby Ordered, that Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, Janice Reeve, Co-partners under the firm name and style of Kennedy Hardware: Ketchikan Spruce Mills, Inc., Alaska Plumbing and Heating Company, a corporation, Ken Hinchey, Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe, and Ed Wilholth, Co-partners doing business under the firm name and style of Wolfe Hardware and Furniture Company: and Sylvia A. Henderson, a minor, who have an interest, in the subject matter to be determined by the Court in the cases of Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell and William Besser, Plaintiffs, vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, Defendants; and Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, Co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, Co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace and Einer G. Nelson, Co-partners under the firm name and style of Alaska Paint & Glass Co., and City Electric of Anchorage, Inc., a corporation, Plaintiffs, vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, Defendants, may intervene and file their complaint in intervention within three days from the signing of this Order, namely, three days from the 9th day of November, 1948, upon the intervenors first serving a copy of their complaint in intervention and/or a copy of the summons, together

with a copy of the complaint, upon the other interested parties, aforesaid, in said causes of action, and filing the same in Court on or before the 12th day of November, 1948.

Done in Open Court this 9th day of November, 1948.

Entered Nov. 10, 1948.

/s/ ANTHONY J. DIMOND

Judge of the District Court.

EXHIBIT "B"

ALASKAN PLUMBING AND HEATING COMPANY, INC., a Corporation

Claimant,

vs.

AUDREY CUTTING, RUSSELL SMITH and
RALPH RUSSELL THOMAS,

Defendants.

CLAIM OF LIEN

Notice is Hereby Given that the Alaskan Plumbing Heating Company, Inc., claims a lien upon

Lot Two (2), Block Thirty-seven "D" (37-D)
of the South Addition to the City of Anchorage,
Territory of Alaska,

for and on account of materials expended upon said building; that the name of the owners, or reputed owners, of said property is Audrey Cutting, Russell

Smith and Ralph Russell Thomas, that the said materials were delivered upon the said property at the instance and request of the said Audrey Cutting and Russell Smith, between the 21st day of May, 1948, and the 18th day of June, 1948, to be used in the construction, alterations or repair of the above mentioned property; that ninety (90) days have not elapsed since the date of furnishing said materials on the property; that the amount claimant demands for said materials is as follows:

Materials furnished between May 21, 1948, and June 18, 1949, \$1,685.00.

That no part thereof has been paid, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of \$1,685.00, in which amount it claims a lien upon said property.

Dated at Anchorage, Alaska, this 31 day of July, 1948.

ALASKAN PLUMBING AND
HEATING COMPANY, INC.

By /s/ LEO J. HALDIMAN

Duly verified.

[Endorsed]: Filed November 10, 1948.

[Title of District Court and Cause.]

No. A-5088

COMPLAINT IN INTERVENTION

Comes now Ketchikan Spruce Mills, Inc., and Alaskan Plumbing and Heating Company, Inc., after leave of the Court first had and obtained and files this, their complaint in intervention in the above-entitled cause and alleges:

That Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, Co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, Co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace, and Einer G. Nelson, Co-partners under the firm name and style of Alaska Paint and Glass Co., and City Electric of Anchorage, Inc., a Corporation, plaintiffs, have filed an action to foreclose their respective claims of lien on

Lot Two (2), Block Thirty-seven "D" (37-D) of the South Addition to the City of Anchorage, according to map and plat thereof on file in office of U. S. Commissioner, ex-Officio Precinct Recorder for Anchorage, Territory of Alaska.

That the defendant, Audrey Cutting, was and has been and now is the reputed owner of the above-described premises, and has, or claims to have, some right, title and interest therein; that the defendant

R. W. Smith had charge and was engaged in the construction of the residence building on the premises hereinbefore described under a contract with the defendant Audrey Cutting: that the plaintiffs in intervention claim a lien on the same above-described land and residence for materials delivered to the premises and that a second action to foreclose their lien would cause needless expense and time; that the plaintiffs in intervention are proper parties to be joined in this action.

First Cause of Action

I.

That the plaintiff Ketchikan Spruce Mills, Inc., is a corporation organized and existing under and by virtue of the Laws of the Territory of Alaska; that said corporation had paid its 1948 license tax and has filed its financial statement due on the 1st day of March, 1948, and is qualified to do business in the Territory of Alaska.

II.

That on or about the 1st day of May, 1948, plaintiff entered into a verbal contract with Russell W. Smith, and Audrey Cutting, defendants, for the furnishing of materials for the construction of a building located on Lot Two (2), Block Thirty-seven "D" (37-D), of the South Addition to the City of Anchorage, Territory of Alaska.

III.

That between the dates of May 3, 1948, and June 9, 1948, plaintiff in intervention furnished materials under the aforesaid contract of the reasonable value of Two Thousand Seven Hundred Seventeen and 86/100 (\$2,717.86) Dollars.

IV.

That in order to secure the payment of said sum of \$2,717.86, plaintiff in intervention prepared a notice of lien dated the 19th day of July, 1948, which claim contained a true statement of said plaintiffs' demand and the amount thereof, and also the names of the persons who directed that such materials be furnished, to wit: Audrey Cutting and Russell Smith, giving the dates when said materials were furnished by it, and also containing a description of the property on which said lien was issued, sufficient for identification, as well as the names of the owner, or owners of record thereof, which said claim was duly verified by claimant and thereafter on the 20th day of July, 1948, and within ninety (90) days from the last day upon which plaintiff in intervention so furnished materials as above set forth, said claim was filed for record with the Recorder of Anchorage Recording Precinct, Third Division, Territory of Alaska, in Book 70 and page 286, of the City Records in which precinct, division and territory the above-described property was and is now situated. That said claim of lien was in the form described by statute and complied in all respects thereto; that a true copy of which notice of

claim of lien of plaintiff in intervention is attached hereto marked Exhibit "A," and by this reference incorporated herein.

V.

That the property on which said lien is claimed is as follows:

Lot Two (2), Block Thirty-seven "D" (37-D) of the South Addition to the City of Anchorage, Territory of Alaska, according to map and plat thereof on file in office of U. S. Commissioner, ex-Officio Precinct Recorder for Anchorage, Territory of Alaska.

VI.

That at all times herein mentioned, the defendants, Audrey Cutting and Russell Smith, were the owners of record or the reputed owners of the above-described premises upon which plaintiff in intervention claims a lien as aforesaid.

VII.

That in the preparation, filing and recording of the above-mentioned Notice of Claim of Lien the plaintiff in intervention as a necessary charge and expense in such preparation, filing and recording has paid the sum of \$17.25, which is a reasonable sum to be allowed plaintiff in intervention for the preparation, filing and recording of said Claim of Lien.

VIII.

That the plaintiff in intervention has made frequent demands upon the defendants herein for the

payment of the lien claim of \$2,717.86, and the defendants, and each of them, has failed and neglected and now fail and neglect to pay any part of said sum, and the balance now due and owing is in the sum of \$2,717.86.

IX.

That the complaint of the plaintiff in intervention herein has been filed within six (6) months of the expiration of the claim herein above mentioned.

X.

That in order to prosecute this action, plaintiff in intervention has been compelled to employ and has so employed an Attorney, the reasonable value of whose services is in the sum of \$350.00.

Wherefore, plaintiff prays judgment herein against defendants for the sum of \$2,717.86, together with interest thereon at the rate of 6% per annum from the 9th day of June, 1948;

2. The sum of \$17.25 for preparing and filing the above claim of lien;

3. The costs and disbursements of plaintiff in intervention herein had and expended including attorney's fee of \$350.00;

4. A decree ordering and adjudging that claim of plaintiff in intervention herein is a valid and sustaining lien upon the herein described premises, Lot 2, Block 37 "D," of the South Addition to the City of Anchorage, Territory of Alaska, and further adjudging that said lien be foreclosed and all of said

property be sold by the United States Marshal in the manner provided by law, and the proceeds thereof applied to the satisfaction of said judgment and the surplus, if any there be after deducting all costs and expenses of sale, be paid to the defendants;

5. For such other and further relief as to the Court may seem meet and just in the premises.

Second Cause of Action

I.

That the plaintiff, Alaskan Plumbing and Heating Company, Inc., is a Corporation organized and existing under and by virtue of the Laws of the Territory of Alaska; that said corporation has paid its 1948 license tax and has filed its financial statement due on the 1st day of March, 1948, and is qualified to do business in the Territory of Alaska.

II.

That on or about the 20th day of May, 1948, plaintiff entered into a verbal contract with Russell W. Smith and Audrey Cutting, defendants, for the furnishing of materials for the construction of a building located on Lot Two (2), Block Thirty-seven "D" (37-D) of the South Addition to the City of Anchorage, Territory of Alaska.

III.

That between the dates of May 21, 1948, and the 18th day of June, 1948, plaintiff in intervention furnished materials under the aforesaid contract of

the reasonable value of One Thousand Six Hundred, Eighty-five and no/100 (\$1,685.00) Dollars.

IV.

That in order to secure the payment of said sum of \$1,685.00, plaintiff in intervention prepared a Notice of Lien dated the 31st day of July, 1948, which claim contained a true statement of said plaintiff's demand and the amount thereof, and also the names of the persons who directed that such materials be furnished, to wit: Audrey Cutting and Russell Smith, giving the dates when said materials were furnished by it, and also containing a description of the property on which said lien was issued, sufficient for identification, as well as the names of the owner, or owners of record thereof, which said claim was duly verified by claimant and thereafter on the 3d day of August, 1948, and within ninety (90) days from the last day upon which plaintiff in intervention so furnished materials as above set forth, said claim was filed for record with the Recorder of Anchorage Recording Precinct, Third Division, Territory of Alaska, in Book 70, at page 310, of the City Records in which precinct, division and Territory the above-described property was and is now situated. That said claim of lien was in the form described by statute and complied in all respects thereto; that a true copy of which notice of claim of lien of plaintiff in intervention is attached hereto marked Exhibit "B" and by this reference incorporated herein.

V.

That the property on which said lien is claimed is as follows:

Lot Two (2), Block Thirty-seven "D" (37-D) of the South Addition to the City of Anchorage, Territory of Alaska, according to map and plat thereof on file in the office of U. S. Commissioner, ex-Officio Precinct Recorder for Anchorage, Territory of Alaska.

VI.

That at all times herein mentioned, the defendants, Audrey Cutting and Russell Smith, were the owners of record or the reputed owners of the above-described premises upon which plaintiff in intervention claims a lien as aforesaid.

VII.

That in the preparation, filing and recording of the above-mentioned Notice of Claim of Lien the plaintiff in intervention as a necessary charge and expense in such preparation, filing and recording has paid the sum of \$17.25, which is a reasonable sum to be allowed plaintiff in intervention for the preparation, filing and recording of said Claim of Lien.

VIII.

That the plaintiff in intervention has made frequent demands upon the defendants herein for the payment of the lien claim of \$1,685.00, and the defendants, and each of them has failed and neglected and now fail and neglect to pay any part of said

sum, and the balance now due and owing is in the sum of \$1,685.00.

IX.

That the complaint of the plaintiff in intervention herein has been filed within six (6) months of the expiration of the claim herein above mentioned.

That in order to prosecute this action, plaintiff in intervention has been compelled to employ and has so employed an attorney, the reasonable value of whose services is in the sum of \$350.00.

Wherefore, plaintiff prays judgment herein against defendants for the sum of \$1,685.00, together with interest thereon at the rate of 6% per annum from the 18th day of June, 1948;

2. The sum of \$17.25 for preparing and filing the above claim of lien;

3. The costs and disbursements of plaintiff in intervention herein had and expended including attorney's fee of \$350.00;

4. A decree ordering and adjudging that claim of plaintiff in intervention herein is a valid and sustaining lien upon the herein described premises, Lot 2, Block 37 "D" of the South Addition to the City of Anchorage, Territory of Alaska, and further adjudging that said lien be foreclosed and all of said property be sold by the United States Marshal in the manner provided by law, and the proceeds thereof applied to the satisfaction of said judgment and the surplus, if any there be, after deducting

all costs and expenses of said sale, be paid to the defendants;

5. For such other and further relief as to the Court may seem meet and just in the premises.

CUDDY & KAY,

By /s/ WENDELL P. KAY,

Of Attorneys for Plaintiffs in
Intervention.

Duly verified.

EXHIBIT "A"

KETCHIKAN SPRUCE MILLS, INC., a
Corporation,

Claimant,

vs.

AUDREY CUTTING, RUSSELL SMITH and
RALPH RUSSELL THOMAS,

Defendants.

CLAIM OF LIEN

Notice Is Hereby Given that the Ketchikan Spruce Mills, Inc., Claims a lien upon

Lot Two (2), Block Thirty-seven "D" (37-D)
of the South Addition to the City of Anchorage,
Territory of Alaska,

for and on account of materials, expended upon
said building; that the name of the owners, or reputed owners, of said property is Audrey Cutting,

Russell Smith and Sylvia A. Henderson, that the said materials were delivered upon the said property at the instance and request of the said Audrey Cutting and Russell Smith, between the 3rd day of May, 1948, and the 9th day of June, 1948, to be used in the construction, alterations or repair of the above-mentioned property; that ninety (90) days have not elapsed since the date of furnishing said materials on the property; that the amount claimant demands for said materials is as follows:

Materials furnished between May 3, 1948, and June 9, 1948, \$2,717.86.

That no part thereof has been paid, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets the sum of \$2,717.86, in which amount it claims a lien upon said property.

Dated at Anchorage, Alaska, this 19th day of July, 1948.

KETCHIKAN SPRUCE
MILLS, INC.,
a Corporation.

By /s/ HARRY GOUDCHAUX.

Duly verified.

Receipt of copy acknowledged.

[Endorsed]: Filed November 9, 1948.

[Title of District Court and Causes.]

No. A-5087.

No. A-5088.

Nos. A-5087 and A-5088.

COMPLAINT IN INTERVENTION

Comes now the plaintiff-in-intervention in the above-entitled causes of action, after leave of Court first had and obtained, and files this, its Complaint in Intervention, and for its first cause of action alleges:

I.

That the plaintiff-in-intervention, during all the dates and times hereinafter mentioned, was a partnership engaged in the manufacture of ready mix cement and ready mix cement blocks.

II.

That during all the times herein mentioned, the defendants-in-intervention, Ralph R. Thomas, Audrey Cutting, Russell W. Smith and Sylvia Henderson, a minor, were, and now are, the owners and reputed owners of the hereinafter described property, to wit:

Lot Two (2) of Block Thirty-seven "D" (37-D) of the South Addition to the original townsite of Anchorage, Alaska, according to the official map and plat thereof on file in the U. S. Commissioner's Office at Anchorage, Alaska; together with that certain one-story dwelling house located thereon.

III.

That the defendants-in-intervention, Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell, William Besser, Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, Co-Partners under the firm name and style of Kennedy Hardware, and Gene Brady, co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace and Einer G. Nelson, co-partners under the firm name and style of Alaska Paint & Glass Co., and City Electric of Anchorage, Inc., a corporation, are lien claimants against the real property hereinbefore described, and have heretofore filed their complaints in the above-entitled causes of action, setting forth their respective claims.

IV.

That the defendants-in-intervention, Ketchikan Spruce Mills, Inc., a corporation, Alaskan Plumbing & Heating Company, a corporation, Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners doing business under the firm name and style of Wolfe Hardware & Furniture, are lien claimants, having filed liens against the real property hereinabove described, for labor performed and/or materials furnished, and that plaintiff-in-intervention believes that the ends of justice would best be served by having a determination of the various interests of the parties plaintiff and defendants at one and the same hearing.

V.

That on and between the 5th day of May, 1948, and the 29th day of May, 1948, at the special instance and request of the defendant-in-intervention, Audrey Cutting, and upon her promise to pay the reasonable value of said services thereon, the plaintiff-in-intervention furnished building materials and performed labor in the construction of that certain dwelling house located on said property; that the building materials furnished and labor performed were actually used and performed in the construction of said dwelling house, and that the said building materials furnished and labor performed were of the reasonable worth and value of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars.

VI.

That the last date upon which said building materials were furnished and said labor performed, as aforesaid, was the 29th day of May, 1948, and that payment for the same, in the sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars became due thereon; that no part of said sum has ever been paid by the said defendant-in-intervention, and that the sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars is still due and owing to the plaintiff-in-intervention; that the building materials furnished and labor performed were satisfactory, so plaintiff-in-intervention believes and alleges, and no reason has ever been given for non-payment.

VII.

That the said defendant-in-intervention, Audrey Cutting, has often been requested to pay the same, but that the said defendant-in-intervention has failed and refused, and does now fail and refuse to pay the same or any part thereof, and that the sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars is now due and owing the plaintiff-in-intervention from the said defendant-in-intervention.

VIII.

That on or about the 12th day of August, 1948, and within ninety (90) days after the last day upon which plaintiff-in-intervention so furnished building materials and performed labor, for the said defendant-in-intervention, as aforesaid, the said plaintiff-in-intervention, for the purpose of maintaining, securing, protecting and perfecting its lien upon the said property above described, duly filed for record and caused to be recorded in the office of the United States Commissioner and ex-Officio Recorder for the Anchorage Recording Precinct, at Anchorage, Alaska, its statement of lien upon and against the above-described property and premises, which said lien was duly recorded in Book 70 of Precinct Records at Page 358; that six months have not elapsed since the date of recording of said statement of lien as aforesaid.

IX.

That said statement of lien so recorded was and is duly verified by the oath of Arthur F. Waldron,

one of the co-partners of the plaintiff-in-intervention, Anchorage Sand and Gravel Company, and contains a true statement of the demands and the amount thereof due said plaintiff-in-intervention, after deducting all just credits and offsets; a description of the property on which the lien is claimed sufficient for identification, being the same property heretofore in this complaint described; the name of the owners and reputed owners thereof; the dates when plaintiff-in-intervention furnished said building materials and performed labor, and all other material facts in relation thereto, a copy of which claim of lien is annexed to and made a part of this complaint, marked "Exhibit A," and by reference hereto incorporated herein and made a part hereof.

X.

That the sum of Twelve and 50/100 (\$12.50) Dollars is a reasonable sum to be allowed for the preparation and recording of said statement of lien. That it is necessary for this plaintiff-in-intervention to engage the services of an attorney to institute and to prosecute this action against the defendants-in-intervention.

XI.

That plaintiff-in-intervention is informed and believes, and alleges the fact to be, based upon such information and belief, that there are no prior or superior liens upon said property or premises, in favor of any person or persons, that take legal

precedence over the materials and labor claim of lien of this plaintiff-in-intervention.

Second Cause of Action

For a further and second cause of action, the plaintiff-in-intervention alleges and complaints against the defendants-in-intervention as follows:

I.

That during all the times herein mentioned, the plaintiff-in-intervention was a partnership engaged in the manufacture of ready mix cement and ready mix cement blocks, and that said plaintiff-in-intervention is the bona fide owner and holder of a written assignment of a Materialmen's Lien which said plaintiff-in-intervention purchased from Arthur F. Waldron, Roger N. Waldron and Jack Harrison, partners doing business under the firm name and style of Cinder Concrete Products Company, the assignor, which said assignor, during all the dates and times hereinafter mentioned, was a partnership engaged in the manufacture of cinder products and cinder blocks; and the said plaintiff-in-intervention brings this cause of action in its own name, as such owner and assignee of the above-mentioned assignment, which was made on the 5th day of October, 1948, and is ready to tender said assignment, which conveys to it the rights and titles of such cause of action.

II.

That during all the times herein mentioned, the defendants-in-intervention, Ralph R. Thomas, Audrey Cutting, Russell W. Smith and Sylvia A. Henderson, a minor, were, and are now, the owners and reputed owners of the hereinafter described property, to wit:

Lot Two (2) of Block Thirty-seven "D" (37-D) of the South Addition to the original townsite of Anchorage, Alaska, according to the official map and plat thereof on file in the U. S. Commissioner's Office at Anchorage, Alaska; together with that certain one-story dwelling house located thereon.

III.

That the defendants-in-intervention, Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell, William Besser, Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve, and Janice Reeve, co-partners under the firm name and style of Kennedy Hardware, and Gene Brady, co-partners under the firm name and style of Brady's Floor Covering, and E. V. Fritts, William J. Wallace and Einer G. Nelson, co-partners under the firm name and style of Alaska Paint & Glass Co., and City Electric of Anchorage, Inc., a corporation, are lien claimants against the real property hereinabove described, and have heretofore filed their complaints in the above-entitled causes of action, setting forth their respective claims.

IV.

That the defendants-in-intervention, Ketchikan Spruce Mills, Inc., a corporation, Alaskan Plumbing & Heating Company, a corporation, Ken Hinchey Co., Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners doing business under the firm name and style of Wolfe Hardware & Furniture, are lien claimants, having filed liens against the real property hereinabove described, for labor performed and/or materials furnished, and that plaintiff-in-intervention believes that the ends of justice would best be served by having a determination of the various interests of the parties plaintiff and defendants at one and the same hearing.

V.

That on and between the 10th day of May, 1948, and the 18th day of May, 1948, at the special instance and request of the defendants-in-intervention, Audrey Cutting, and upon her promise to pay the reasonable value of said services thereon, the plaintiff-in-intervention's assignor furnished building materials in the construction of that certain dwelling house located on said property; that the building materials furnished were actually used in the construction of said dwelling house, and that the said building materials furnished were of the reasonable worth and value of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars.

VI.

That the last date upon which said building materials were furnished, as aforesaid, was the 18th day of May, 1948, and that payment for the same, in the sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars became due thereon; that no part of said sum has ever been paid by the said defendant-in-intervention; and that the sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars is still due and owing to the plaintiff-in-intervention as assignee of said assignment aforesaid; that the building materials were satisfactory, so plaintiff-in-intervention believes and alleges, and no reason has ever been given for non-payment.

VII.

That the defendant-in-intervention, Audrey Cutting, has often been requested to pay the same, but that the said defendant-in-intervention has failed and refused, and does now fail and refuse to pay the same or any part thereof, and that the sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars is now due and owing the plaintiff-in-intervention, as assignee of said assignment aforesaid, from the said defendant-in-intervention.

VIII.

That on or about the 12th day of August, 1948, and within ninety (90) days after the last day upon which plaintiff-in-intervention's assignor so furnished building materials for the said defendant-in-intervention, as aforesaid, the said assignor, for the purpose of maintaining, securing, protecting

and perfecting its lien upon the said property above described, duly filed for record and caused to be recorded in the office of the United States Commissioner and ex-Officio Recorder for the Anchorage Recording Precinct, at Anchorage, Alaska, its statement of lien upon and against the above-described property and premises, which said lien was duly recorded in Book 70 of Precinct Records at Page 357; that six months have not elapsed since the date of recording of said statement of lien as aforesaid.

IX.

That said statement of lien so recorded was and is duly verified by Jack F. Harrison, one of the partners of the plaintiff-in-intervention's assignor, Cinder Concrete Products Company, and contains a true statement of demands and the amount thereof due said assignor, after deducting all just credits and offsets; a description of the property on which the lien is claimed sufficient for identification, being the same property heretofore in this cause of action described; the name of the owners and reputed owners thereof; the dates when plaintiff-in-intervention's assignor furnished said building materials, and all other material facts in relation thereto, a copy of which claim for lien is annexed to and made a part of this complaint, marked "Exhibit B," and by reference hereto incorporated herein and made a part hereof.

X.

That the sum of Twelve and 50/100 (\$12.50) Dollars is a reasonable sum to be allowed for the

preparation and recording of said statement of lien. That it is necessary for this plaintiff-in-intervention to engage the services of an attorney to institute and to prosecute this action against the defendants-in-intervention.

XI.

Plaintiff-in-intervention is informed and believes, and alleges the facts to be, based upon such information and belief, that there are no prior or superior liens upon said property or premises, in favor of any person or persons, that take legal precedence over the Materialmen's Lien above set forth.

Wherefore, plaintiff-in-intervention prays judgment against the defendants-in-intervention as follows:

1. Personal judgment on its first cause of action against the defendant-in-intervention, Audrey Cutting, for the sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars, together with interest thereon at the rate of six per cent (6%) per annum from May 29, 1948; together with Twelve and 50/100 (\$12.50) Dollars for the preparation and recording of the statement of lien; together with a reasonable sum for attorney's fee, to be fixed by the Court, and for plaintiff-in-intervention's costs and disbursements in this cause of action incurred.

2. That the total amount so due to plaintiff-in-intervention on its first cause of action, from the defendant-in-intervention, Audrey Cutting, together

with plaintiff-in-intervention's costs, disbursements and attorney's fees, as aforesaid, be adjudged and decreed to be first, prior and superior liens upon all and every part of the property in this complaint mentioned and described, prior and superior to any right, claim of title or lien of the defendants-in-intervention herein, in or to said property or any part thereof, or of any person or persons claiming, or to claim under, by or through said defendants-in-intervention; that said property be sold under decree according to law and the practice of this Honorable Court, and that the moneys derived therefrom be applied to the payment of the amounts due to the plaintiff-in-intervention on its first cause of action, as hereinabove stated.

3. For such other and further relief as to the Court may seem just and equitable in the premises.

4. Personal judgment on its second cause of action against the defendant-in-intervention, Audrey Cutting, for the sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars, together with interest thereon at the rate of six per cent (6%) per annum from May 18, 1948; together with Twelve and 50/100 (\$12.50) Dollars for the preparation and recording of the statement of lien; together with a reasonable sum for attorney's fee, to be fixed by the Court, and for plaintiff-in-intervention's costs and disbursements in this cause of action incurred.

5. That the total amount so due to plaintiff-in-

intervention on its second cause of action, from the defendant-in-intervention, Audrey Cutting, together with plaintiff-in-intervention's costs, disbursements and attorney's fees, as aforesaid, be adjudged and decreed to be first, prior and superior lien upon all and every part of the property in this complaint mentioned and described, prior and superior to any right, claim of title or lien of the defendants-in-intervention herein, in or to said property or any part thereof, or of any person or persons claiming, or to claim under, by or through said defendants-in-intervention; that said property be sold under decree according to law and the practice of this Honorable Court, and that the moneys derived therefrom be applied to the payment of the amounts due to the plaintiff-in-intervention on its second cause of action, as hereinabove stated.

6. For such other and further relief as to the Court may seem just and equitable in the premises.

ANCHORAGE SAND AND
GRAVEL COMPANY,

By /s/ ARTHUR F. WALDRON,
Co-partner,
Plaintiff-in-intervention.

By /s/ J. L. McCARREY, JR.,
Attorney for Plaintiff-in-
intervention.

Duly verified.

EXHIBIT "A"

ARTHUR F. WALDRON and JOSEPH A.
COLUMBUS, Co-partners Doing Business
Under the Firm Name and Style of ANCHOR-
AGE SAND AND GRAVEL COMPANY,
Plaintiffs,

vs.

AUDREY CUTTING and RALPH RUSSELL
THOMAS, RUSSELL SMITH and LOT 2,
BLOCK 37 "D," SOUTH ADDITION,
Defendants.

MATERIALS AND LABOR CLAIM OF LIEN

Notice Is Hereby Given that Arthur F. Waldron and Joseph A. Columbus, co-partners doing business under the firm name and style of Anchorage Sand & Gravel Company, Claim a labor and materialmen's lien upon that certain real property and one-story dwelling house situate, lying and being in the Anchorage Recording Precinct, Third Judicial Division, Territory of Alaska, and more particularly described as follows, to wit:

Lot Two (2) of Block Thirty-seven "D" (37-D) of the South Addition to the original townsite of Anchorage, Alaska, according to the official map and plat thereof on file in the U. S. Commissioner's Office at Anchorage, Alaska, together with that certain one-story dwelling house located thereon.

That said claim for lien is for labor and services performed, and materials furnished, in and about the construction, either in whole or in part, of the said dwelling house on said property; that the names of the owners or reputed owners of said property are Audrey Cutting and Ralph Russell Thomas; that said labor and services performed, and materials furnished, were ordered performed and furnished upon and to said property on and between the 5th day of May, 1948, and the 29th day of May, 1948, at the request of Audrey Cutting, for whom said labor and services were performed and said materials furnished; that the amount claimants demand for said labor and materials, after deducting all just credits and off-sets, is the sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars; that no part of said sum has been paid, and that there is now due, owing and unpaid said sum of Three Hundred Seventy-seven and 61/100 (\$377.61) Dollars, for which claimants claim a lien against the hereinabove-described property; that ninety (90) days have not elapsed since claimants ceased to furnish materials and perform labor and services, as aforesaid.

ANCHORAGE SAND &
GRAVEL COMPANY,

By /s/ ARTHUR F. WALDRON,
Co-partner.

Duly verified.

“EXHIBIT B”

ARTHUR F. WALDRON, ROGER N. WALDRON and JACK HARRISON, Partners Doing Business Under the Firm Name and Style of CINDER CONCRETE PRODUCTS COMPANY,

Plaintiffs,

vs.

AUDREY CUTTING and RALPH RUSSELL THOMAS, RUSSELL SMITH and LOT 2, BLOCK 37 “D” SOUTH ADDITION,

Defendants.

MATERIALMEN’S LIEN

Notice Is Hereby Given that Arthur F. Waldron, Roger N. Waldron and Jack Harrison, partners doing business under the firm name and style of Cinder Concrete Products Company, of Anchorage, Alaska, claim a materialmen’s lien upon that certain real property and one-story dwelling house situate, lying and being in the Anchorage Recording Precinct, Third Judicial Division, Territory of Alaska, and more particularly described as follows, to wit:

Lot two (2) of Block Thirty-seven “D” (37-D) of the South Addition to the original townsite of Anchorage, Alaska, according to the official map and plat thereof on file in the U. S. Commissioner’s office at Anchorage, Alaska; together with that certain one-story dwelling house located thereon.

That said claim for lien is for materials furnished, in and about the construction, either in whole or in part, of said dwelling house on said property; that the names of the owners or reputed owners of said property are Audrey Cutting and Ralph Russell Thomas; that said materials furnished, were ordered furnished upon and to said property on and between the 10th day of May, 1948, and the 18th day of May, 1948, at the request of Audrey Cutting, for whom said materials were furnished; that the amount claimants demand for said materials, after deducting all just credits and off-sets, is the sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars; that no part of said sum has been paid, and that there is now due, and owing and unpaid said sum of Six Hundred Twenty-eight and 27/100 (\$628.27) Dollars, for which claimants claim a lien against the hereinabove-described property; that ninety (90) days have not elapsed since claimants ceased to furnish materials as aforesaid.

CINDER CONCRETE
PRODUCTS COMPANY,

By /s/ JACK F. HARRISON,
Partner.

Duly verified.

Receipt of copy acknowledged.

[Endorsed]: Filed November 12, 1948.

[Title of District Court and Cause.]

No. A-5088.

ORDER ALLOWING INTERVENTION

This cause coming on before the above-entitled court on the 26th day of November, 1948, at Anchorage, Alaska, upon the motion of Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, co-partners under the firm name and style of Kennedy Hardware, and all Plaintiffs and Plaintiffs in Intervention consenting thereto, by their respective attorneys, and a copy of the Complaint in Intervention of said proposed Intervenors, being attached hereto and duly considered, Now Therefore:

It Is Hereby Ordered, that said Complaint in Intervention may be filed herein.

Dated at Anchorage, Alaska, November 26th, 1948.

/s/ GEORGE W. FOLTA,
District Judge.

Approved:

/s/ J. L. McCARREY, JR.,
Attorney for Anchorage Sand
and Gravel Company.

/s/ WENDELL P. KAY,
Attorney for Ketchikan Spruce Mills, Inc., and
Alaskan Plumbing and Heating Company, Inc.

/s/ HAROLD J. BUTCHER,
Attorney for Audrey Cutting,
Defendant.

/s/ JOHN H. DIMOND,
Attorney for Trustee for Rus-
sell W. Smith, Bankrupt.

Entered Nov. 27, 1948.

[Endorsed]: Filed November 27, 1948.

[Title of District Court and Cause.]

No. A-5088.

COMPLAINT IN INTERVENTION

Come now Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, co-partners under the firm name and style of Kennedy Hardware, by leave of Court first had and obtained, and for cause of action, allege:

I.

That at all times hereinafter mentioned, the plaintiffs in Intervention, Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, were co-partners engaged in the hardware business at Anchorage, Alaska, under the firm name and style of Kennedy Hardware.

II.

That all the Plaintiffs and Plaintiffs in Inter-

vention in the above-entitled action have brought their respective actions to foreclose liens for material furnished or labor performed in the constructing of a certain residence building on the premises described as follows:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, according to the official map and plat thereof on file in the office of the Recorder for the Precinct of Anchorage, Third Division, Territory of Alaska.

III.

That during the times hereinafter mentioned, the defendant, Ralph Russell Thomas, was the owner of the premises described in the foregoing Paragraph.

IV.

That during all times hereinafter mentioned, the defendant, Audrey Cutting, was and ever since has been and now is the reputed owner of the above-described premises and has or claims to have some right, title or interest therein, the nature of which is unknown to these Plaintiffs in Intervention, and is therefore not stated, but which Plaintiffs in Intervention allege is inferior and subject to the lien of Plaintiffs in Intervention hereinafter set forth.

V.

That the Defendants in Intervention, Sylvia A. Henderson, a minor, has or claims to have some right, title or interest in the premises above de-

scribed, the nature of which is unknown to these Plaintiffs in Intervention, and therefore not stated, but which Plaintiffs in Intervention allege is subject to their lien hereinafter set forth.

VI.

That during all the times hereinafter in the next paragraph of this cause of action mentioned, the defendant, Russell W. Smith, had charge of and was engaged in the construction of a residence building on the premises hereinbefore described under a contract with the defendant, Audrey Cutting; that said construction was with the knowledge, consent and at the instance of the defendants, Audrey Cutting and Ralph Russell Thomas.

VII.

That during the period beginning May 20, 1948, and ending June 19, 1948, these Plaintiffs in Intervention furnished material for the construction of the aforesaid building for and at the request of said Russell W. Smith at the agreed price and of the reasonable value of One Hundred Twelve and 95/100 Dollars (\$112.95); that said material consisted of nails, bolts, spikes, washers, butts, locks and locksets, mastic, sash-lifts, sash-fast, key-plaster, door-stops and hinges, all of which was used in the actual construction of said building and became a permanent part thereof.

VII.

That the said Russell W. Smith has not paid to

Plaintiffs in Intervention the aforesaid prices and reasonable value of said material, nor any part thereof, although frequently requested so to do, and the same is now due and owing from said defendant to Plaintiffs in Intervention.

IX.

That the whole of the real property hereinbefore described is required for the convenient use and occupation of the residence building hereinbefore mentioned.

X.

That by reason of the premises, Plaintiffs in Intervention acquired a lien upon the premises hereinbefore described for the sum due them as aforesaid, and for the purpose of securing and perfecting the said lien, Plaintiffs in Intervention on the 2nd day of August, 1948, filed for record in the office of the Recorder for the Anchorage Recording Precinct, Territory of Alaska, a claim containing a true statement of their demand, after deducting all charges, credits and offsets duly verified with the name of the owner and reputed owner and also the name of the person to whom they furnished the material and also a description of the property to be charged with said lien, sufficient for identification. That said claim of lien was duly recorded in Book 70 on Page 304 of the City Records of said recording precinct; that a true and correct copy of said claim of lien is hereunto annexed, marked "Exhibit A" and made a part of this Complaint.

That Plaintiffs in Intervention paid for filing

and recording said claim of lien, the sum of Four and 05/100 Dollars (\$4.05).

That the sum of One Hundred Dollars (\$100.00) is a reasonable amount to be allowed by the Court as an attorney fee for the prosecution of this action.

XI.

That on the 16th day of July, 1948, Russell W. Smith, defendant in the first above-entitled action, was adjudged a bankrupt by order of the above-entitled Court, and thereafter in said bankruptcy proceeding, Herald E. Stringer was duly appointed trustee of the estate of said bankrupt, and is now the duly appointed and qualified trustee of said estate.

That on or about the 24th day of July, 1948, an action was commenced in the above-entitled Court, entitled, Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell, and William Besser vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, No. A-5087.

That said action was and is an action to foreclose certain claimed liens of the plaintiffs' therein, against the premises hereinbefore described, on account of labor performed in the construction of the residence building referred to and described in Paragraph II of this Complaint in Intervention.

That the said Herald Stringer, as Trustee for the estate of the said Russell W. Smith, has by leave of court filed a Complaint in Intervention in said action No. A-5087, wherein and whereby prays for the foreclosure of an alleged contractor's lien

claimed by the said Russell W. Smith against the aforesaid building and premises.

That the said action No. 5087 has been by order of this Court consolidated for trial with said cause No. 5088, the above-entitled action in which this Complaint in Intervention is filed.

That the said claimed lien of the said Russell W. Smith is subordinate and subject to the lien of these Plaintiffs in Intervention.

Wherefore Plaintiffs in Intervention Pray:

1. For a decree of this Court adjudging that they are entitled to recover from the said Russell W. Smith the sum of One Hundred and Twelve Dollars and Ninety-five Cents (\$112.95) together with interest thereon at the rate of six per cent per annum from June 19th, 1948, together with the sum of Four Dollars and Five Cents (\$4.05) for filing and recording their said claim of lien and the sum of One Hundred Dollars (\$100.00) attorney fee.

2. That said decree adjudge that Plaintiffs in Intervention have a lien on the premises hereinbefore described including the residence building thereon for said amounts stated in the preceding paragraph, and that all of said premises be sold according to law and the proceeds of said sale, after satisfaction of judgments for any valid prior liens, be applied to the payment of the sum found due to these Plaintiffs in Intervention.

3. For such other and further relief as to the Court may seem equitable in the premises.

GEORGE B. GRIGSBY,
Attorney for Plaintiffs
in Intervention.

A true copy.

Duly verified.

“EXHIBIT A”

TED VAN THIEL, PATSY VAN THIEL, E. P.
CARTEE, JEAN CARTEE, R. C. REEVE,
and JANICE REEVE, Co-partners Under
the Firm Name and Style of KENNEDY
HARDWARE,

Claimants,

vs.

AUDREY CUTTING, RUSSELL W. SMITH,
RALPH RUSSELL THOMAS and LOT
TWO (2) IN BLOCK THIRTY-SEVEN D
(37-D) OF THE SOUTH ADDITION TO
THE TOWNSITE OF ANCHORAGE.

CLAIM OF LIEN

Notice is hereby given that the above-named claimants claim a lien upon the following described premises situate in the City of Anchorage, Alaska, to wit:

Lot Two (2) in Block Thirty-seven D (37 D)
of the South Addition to the City of Anchorage,

Alaska, according to the official map and plat thereof on file in the office of the Recorder for the Precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

The owners and reputed owners of the above-described premises are Ralph Russell Thomas and Audrey Cutting.

The residence building now on said premises was constructed by the above-named Russell W. Smith under a contract with the said Audrey Cutting, with the knowledge and consent of the said Russell Thomas, and was under construction during all the times hereinafter mentioned.

This lien is claimed for material furnished for the construction of said building by the above-named claimants, during the period beginning May 20th, 1948, and ending June 19th, 1948, and ending on the latter date, consisting of nails, bolts, spikes, washers, butts, locks and locksets, mastic, sash-lifts, sash-fasts, key-plaster, door-stops and hinges, all of which was used in the actual construction of said building and became a part thereof.

That said material was furnished for and to and at the request of the said Russell W. Smith, at the agreed price and reasonable value of One Hundred and Twelve Dollars and Ninety-five Cents (\$112.95), which he promised and agreed to pay, and there is now due and owing to the claimants from the said Russell W. Smith, after deducting all just credits and offsets, said sum of One Hundred and Twelve

Dollars and Ninety-five Cents, for which sum these claimants claim a lien on the aforesaid premises.

/s/ TED VAN THIEL.

Duly verified.

[Endorsed]: Filed November 27, 1948.

[Title of District Court and Cause.]

No. A-5088.

COMPLAINT IN INTERVENTION

Come now Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, co-partners under the firm name and style of Kennedy Hardware, by leave of Court first had and obtained and for cause of action allege:

I.

That at all times hereinafter mentioned, the Plaintiffs in Intervention, Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, were co-partners engaged in the hardware business at Anchorage, Alaska, under the firm name and style of Kennedy Hardware.

II.

That all the Plaintiffs and Plaintiffs in Intervention in the above-entitled action have brought their respective actions to foreclose liens for material furnished or labor performed in the con-

structing of a certain residence building on the premises described as follows:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, according to the official map and plat thereof on file in the office of the Recorder for the Precinct of Anchorage, Third Division, Territory of Alaska.

III.

That during the times hereinafter mentioned, the defendant, Ralph Russell Thomas, was the owner of the premises described in the foregoing Paragraph.

IV.

That during all times hereinafter mentioned, the defendant, Audrey Cutting, was and ever since has been and now is the reputed owner of the above-described premises and has or claims to have some right, title or interest therein, the nature of which is unknown to these Plaintiffs in Intervention, and is therefore not stated, but which Plaintiffs in Intervention allege is inferior and subject to the lien of Plaintiffs in Intervention hereinafter set forth.

V.

That the Defendant in Intervention, Sylvia A. Henderson, a minor, has or claims to have some right, title or interest in the premises above described, the nature of which is unknown to these Plaintiffs in Intervention, and therefore not stated, but which Plaintiffs in Intervention allege is subject to their lien hereinafter set forth.

VI.

That during all the times hereinafter in the next paragraph of this cause of action mentioned, the defendant, Russell W. Smith, had charge of and was engaged in the construction of a residence building on the premises hereinbefore described under a contract with the defendant, Audrey Cutting; that said construction was with the knowledge, consent and at the instance of the defendants, Audrey Cutting and Ralph Russell Thomas.

VII.

That during the period beginning May 20, 1948, and ending June 19, 1948, these Plaintiffs in Intervention furnished material for the construction of the aforesaid building for and at the request of said Russell W. Smith at the agreed price and of the reasonable value of One Hundred Twelve and 95/100 Dollars (\$112.95); that said material consisted of nails, bolts, spikes, washers, butts, locks and locksets, mastic, sash-lifts, sash-fasts, key-plater, door-stops and hinges, all of which was used in the actual construction of said building and became a permanent part thereof.

VIII.

That the said Russell W. Smith has not paid to Plaintiffs in Intervention the aforesaid prices and reasonable value of said material, nor any part thereof, although frequently requested so to do, and the same is now due and owing from said defendant to Plaintiffs in Intervention.

IX.

That the whole of the real property hereinbefore described is required for the convenient use and occupation of the residence building hereinbefore mentioned.

X.

That by reason of the premises, Plaintiffs in Intervention acquired a lien upon the premises hereinbefore described for the sum due them as aforesaid, and for the purpose of securing and perfecting the said lien, Plaintiffs in Intervention on the 2nd day of August, 1948, filed for record in the office of the Recorder for the Anchorage Recording Precinct, Territory of Alaska, a claim containing a true statement of their demand, after deducting all charges, credits and offsets duly verified with the name of the owner and reputed owner and also the name of the person to whom they furnished the material and also a description of the property to be charged with said lien, sufficient for identification. That said claim of lien was duly recorded in Book 70 on Page 304 of the City records of said recording precinct; that a true and correct copy of said claim of lien is hereunto annexed, marked "Exhibit A" and made a part of this Complaint.

That Plaintiffs in Intervention paid for filing and recording said claim of lien, the sum of Four and 05/100 Dollars (\$4.05).

That the sum of One Hundred Dollars (\$100.00) is a reasonable amount to be allowed by the Court as an attorney fee for the prosecution of this action.

XI.

That on the 16th day of July, 1948, Russell W. Smith, defendant in the first above-entitled action, was adjudged a bankrupt by order of the above-entitled Court, and thereafter in said bankruptcy proceedings, Herald E. Stringer was duly appointed trustee of the estate of said bankrupt, and is now the duly appointed and qualified trustee of said estate.

That on or about the 24th day of July, 1948, an action was commenced in the above-entitled Court, entitled, Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell, and William Bes-ser vs. Ralph R. Thomas, Audrey Cutting and Russell W. Smith, No. A-5087.

That said action was and is an action to foreclose certain claimed liens of the plaintiffs' therein, against the premises hereinbefore described, on account of labor performed in the construction of the residence building referred to and described in Paragraph II of this Complaint in Intervention.

That the said Herald Stringer, as Trustee for the estate of the said Russell W. Smith, has by leave of court filed a Complaint in Intervention in said action No. A-5087, wherein and whereby prays for the foreclosure of an alleged contractor's lien claimed by the said Russell W. Smith against the aforesaid building and premises.

That the said action No. 5087 has been by order of this Court, consolidated for trial with said cause No. 5088, the above-entitled action in which this complaint in intervention is filed.

That the said claimed lien of the said Russell W. Smith is subordinate and subject to the lien of these Plaintiffs in Intervention.

Wherefore Plaintiffs in Intervention Pray:

1. For a decree of this Court adjudging that they are entitled to recover from the said Russell W. Smith the sum of One Hundred and Twelve Dollars and Ninety-five Cents (\$112.95) together with interest thereon at the rate of six per cent per annum from June 19th, 1948, together with the sum of Four Dollars and Five Cents (\$4.05) for filing and recording their said claim of lien and the sum of One Hundred Dollars (\$100.00) attorney fee.

2. That said decree adjudge that Plaintiffs in Intervention have a lien on the premises hereinbefore described including the residence building thereon for said amounts stated in the preceding paragraph, and that all of said premises be sold according to law and the proceeds of said sale, after satisfaction of judgments for any valid prior liens, be applied to the payment of the sum found due to these Plaintiffs in Intervention.

3. For such other and further relief as to the Court may seem equitable in the premises.

/s/ GEORGE B. GRIGSBY,
Attorney for Plaintiffs
in Intervention.

Duly verified.

“EXHIBIT A”

TED VAN THIEL, PATSY VAN THIEL, E. P. CARTEE, JEAN CARTEE, R. C. REEVE and JANICE REEVE, Co-partners Under the Firm Name and Style of KENNEDY HARDWARE,

Claimants,

vs.

AUDREY CUTTING, RUSSELL W. SMITH, RALPH RUSSELL THOMAS and LOT TWO (2) IN BLOCK THIRTY-SEVEN D (37-D) OF THE SOUTH ADDITION TO THE TOWNSITE OF ANCHORAGE.

CLAIM OF LIEN

Notice is hereby given that the above-named claimants claim a lien upon the following described premises situate in the City of Anchorage, Alaska, to wit:

Lot Two (2) in Block Thirty-seven D (37D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file in the office of the Recorder for the Precinct of Anchorage, Third Division, Territory of Alaska, together with the residence building thereon situated.

The owners and reputed owners of the above-described premises are Ralph Russell Thomas and Audrey Cutting.

The residence building now on said premises was constructed by the above-named Russell W. Smith under a contract with the said Audrey Cutting, with the knowledge and consent of the said Russell Thomas, and was under construction during all the times hereinafter mentioned.

This lien is claimed for material furnished for the construction of said building by the above-named claimants, during the period beginning May 20th, 1948, and ending June 19th, 1948, and ending on the latter date, consisting of nails, bolts, spikes, washers, butts, locks and locksets, mastic, sash-lift, sash-fast, key-plaster, doorstops and hinges, all of which was used in the actual construction of said building and became a part thereof.

That said material was furnished for and to and at the request of the said Russell W. Smith, at the agreed price and reasonable value of One Hundred and Twelve Dollars and Ninety-five Cents (\$112.95) which he promised and agreed to pay, and there is now due and owing to the claimants from the said Russell W. Smith, after deducting all just credits and offsets, said sum of One Hundred and Twelve Dollars and Ninety-five cents, for which sum these claimants claim a lien on the aforesaid premises.

/s/ TED VAN THIEL.

Duly verified.

Receipt of Copy acknowledged.

[Endorsed]: Filed November 27, 1948.

MARSHAL'S RETURN

United States of America, Third Division,
Territory of Alaska

I hereby certify that I received the within Complaint and Intervention entitled:

TED VAN THIEL, PATSY VAN THIEL, E. P. CARTEE, JEAN CARTEE, R. C. REEVE, and JANICE REEVE, Co-partners, Under the Firm Name and Style of KENNEDY HARDWARE and GENE BRADY, Co-partners Under the Firm Name and Style of BRADY'S FLOOR COVERING, and E. V. FRITTS; WILLIAM J. WALLACE, and EINER G. NELSON, Co-partners Under the Firm Name and Style of ALASKA PAINT AND GLASS CO., and CITY ELECTRIC OF ANCHORAGE, INC., a Corporation,

Plaintiffs,

vs.

RALPH R. THOMAS, AUDREY CUTTING and
RUSSELL W. SMITH,

Defendants.

On the day of November, 1948; and that I made service on Ralph R. Thomas at Anchorage, Alaska, by leaving with him a copy of said Complaint and Intervention, duly certified to be a true

and correct copy by Wendell P. Kay, Attorney for Plaintiff in Intervention.

JAMES H. PATTERSON,
U. S. Marshal.

I hereby Certify that the within Order to Show Cause was not served due to the fact that It had expired.

Dated at Anchorage, Alaska, this 14th day of December, 1948.

JAMES H. PATTERSON,
U. S. Marshal.

By /s/ HERBERT D. HOFF,
Deputy.

[Endorsed]: Filed December 22, 1948.

[Title of District Court and Cause.]

No. A-5088.

ANSWER TO COMPLAINT IN
INTERVENTION

Comes now Audrey Cutting, and answering the complaint in intervention of the plaintiffs, admits and denies as follows:

I.

The defendant herein answering denies all of the allegations of the complaint filed by plaintiffs in intervention except that the defendant, R. W. Smith,

entered into a contract with the defendant herein, Audrey Cutting, for the construction of a residence.

Affirmative Defense

That by virtue of said contract, the said Russell W. Smith was an independent contractor and that the plaintiff in intervention had no lien rights against the property of the defendant herein and that defendant made no contract with the plaintiff in intervention inconsistent with said independent contract.

Wherefore, defendant prays that plaintiffs in intervention take nothing by their complaint and that it be dismissed with its costs.

/s/ HAROLD J. BUTCHER,
Attorney for Defendant.

Duly verified.

[Endorsed]: Filed December 30, 1948.

[Title of District Court and Cause.]

No. A-5088.

**ANSWER TO COMPLAINT IN
INTERVENTION**

Comes now the defendant, Audrey Cutting, and answering for herself and on behalf of her minor daughter, Sylvia A. Henderson, admits and denies as follows:

I.

Denies each and every allegation in said complaint in intervention which have not previously been admitted or denied in the defendants' previous answer to the original complaint.

Wherefore, defendant prays that plaintiffs take nothing by their complaint in intervention and that they be hence dismissed with costs.

/s/ HAROLD J. BUTCHER,
Attorney for Defendant.

Duly verified.

[Endorsed]: Filed December 30, 1948.

[Title of District Court and Causes.]

No. A-5087-5088.

ANSWER AND CROSS-COMPLAINT

Comes now Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners doing business under the firm name and style of Wolfe Hardware and Furniture, hereinafter known as Wolfe Hardware, of the above-named defendants and appearing for themselves alone and not for their co-defendants or any of the other parties in this action, in answer to the first cause of action of the complaint in intervention of the intervening plaintiffs, admits, denies and alleges as follows:

I.

Except as hereinafter set forth, defendant Wolfe Hardware admits the allegations of the first, second, third and fourth paragraphs of the first cause of action of the complaint in intervention filed by Arthur F. Waldron and Joseph A. Columbus, co-partners, doing business under the firm name and style of Anchorage Sand and Gravel Company.

II.

Defendant Wolfe Hardware has no knowledge or information sufficient to form a belief concerning the allegations of the fifth, sixth and seventh paragraphs of the first cause of action of the complaint in intervention above described, and for that reason denies each and all the allegations of such paragraphs.

III.

Defendant Wolfe Hardware has no knowledge or information sufficient to form a belief concerning the allegations of the eighth paragraph of the first cause of action of the complaint in intervention above described, and for that reason denies all the allegations of such paragraph, except as to the allegation concerning the filing and recording of the lien claim mentioned in said eighth paragraph, at book 70 of Precinct Records, on page 358 thereof, which allegation is admitted by the defendant Wolfe Hardware.

IV.

Wolfe Hardware has no knowledge or information concerning the allegations of the ninth and tenth

paragraphs of the first cause of action of the complaint in intervention filed by Arthur F. Waldron and Joseph A. Columbus, co-partners, doing business under the firm name and style of Anchorage Sand & Gravel Company, and for that reason denies each and all of such allegations.

V.

Wolfe Hardware denies each and all the allegations of the 11th paragraph of the first cause of action of the complaint in intervention filed by Arthur F. Waldron and Joseph A. Columbus, co-partners doing business under the firm name and style of Anchorage Sand & Gravel Company.

By way of Answer to the second cause of action of the complaint in intervention of Arthur F. Waldron and Joseph A. Columbus, co-partners, doing business under the firm name and style of Anchorage Sand & Gravel Company, Wolfe Hardware admits, denies and alleges as follows:

I.

Wolfe Hardware admits the allegations of the first paragraph of the second cause of action of the complaint in intervention except the allegations concerning an alleged assignment to the plaintiff in intervention from the co-partners doing business as Concrete Products Company and as to such allegations, Wolfe Hardware has no knowledge or information sufficient to form a belief and for that reason denies the same.

II.

Except as hereinafter set forth, Wolfe Hardware admits the allegations of the second, third, and fourth paragraphs of the second cause of action of the complaint in intervention.

III.

Wolfe Hardware has no knowledge or information concerning the allegations of the fifth, sixth and seventh paragraphs of the second cause of action of the complaint in intervention, and for that reason denies each and all the allegations thereof.

IV.

Wolfe Hardware denies the allegations of the eighth paragraph of the second cause of action of the complaint in intervention except the allegations concerning the filing and recording of the claim of lien mentioned in such paragraph, which allegations are admitted by the defendant Wolfe Hardware.

V.

Wolfe Hardware has no knowledge or information concerning the allegations of the ninth or tenth paragraphs of the second cause of action of the complaint in intervention and for that reason denies each and all of such allegations.

VI.

Wolfe Hardware denies all the allegations of the eleventh paragraph of the second cause of action of the complaint in intervention.

As a further answer to the complaint in intervention and by way of cross-complaint thereto, answering defendants Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, known herein as Wolfe Hardware, allege as follows:

I.

Defendants Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, are and at all times mentioned in this answer have been co-partners doing business at Anchorage, Alaska, under the firm name and style of Wolfe Hardware and Furniture, and are referred to in this answer and cross-complaint as Wolfe Hardware.

II.

The defendant Ralph R. Thomas is, and at all times mentioned in this answer was, one and the same person as Ralph Russell Thomas.

III.

Sylvia A. Henderson, as the defendant Wolfe Hardware believes, and so alleges the fact to be, is and at all times mentioned in this action has been, a minor.

IV.

That Ted Van Thiel, Patsy Van Thiel, E. P. Cartee, Jean Cartee, R. C. Reeve and Janice Reeve, a co-partnership, doing business as Kennedy Hardware, and Gene Brady, are and at all times mentioned in this complaint have been, co-partners, doing business at Anchorage, Alaska, under the firm name and style of Brady's Floor Covering.

V.

That E. V. Fritts, William J. Wallace, and Einer G. Nelson are and at all times concerned in this action, have been co-partners, doing business at Anchorage, Alaska, under the firm name and style of Alaska Paint and Glass Company.

VI.

That the City Electric of Anchorage, Inc., is, and at all times concerned in this action, has been a corporation organized and existing under and by virtue of the laws of the Territory of Alaska.

VII.

That Arthur F. Waldron and Joseph A. Columbus are and at all times concerned in this action have been, co-partners doing business at Anchorage, Alaska, under the firm name and style of Anchorage Sand & Gravel Company.

VIII.

That Arthur F. Waldron, Roger N. Waldron and Jack Harrison are, and at all times mentioned in this answer have been, co-partners doing business at Anchorage, Alaska, under the firm name and style of Cinder Concrete Products Company.

IX.

That Ketchikan Spruce Mills, Inc., is, and at all times mentioned in this answer has been a corporation.

X.

That Alaskan Plumbing and Heating Company, Inc., is and at all times mentioned in this answer has been, a Corporation.

XI.

That at all times concerned in this action Ken Hinchey Company has been the trade name used by Ken Hinchey and Nadine Hinchey, co-partners, doing business at Anchorage, Alaska, under that name.

XII.

That at the time Wolfe Hardware furnished materials as hereinafter set forth, the defendant, Ralph Russell Thomas, was the record owner of certain real property located in the City of Anchorage, Alaska, and more particularly described as follows:

Lot 2, Block Thirty-seven "D" (37-D) of the South Addition to the townsite of Anchorage, Alaska, according to the map and plat of the Welch subdivision, which map and plat is on file and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska, together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and including certain buildings constructed thereon, as hereinafter more fully set forth.

XIII.

That since Wolfe Hardware ceased to furnish

materials for construction on the above-described property, a Deed has been recorded at Book seventy-one (71) of the City Records of the Anchorage Recording Precinct, at page twenty-one (21) thereof, which purports to have been executed on the 30th day of November, 1946, and which purports to convey the above-described property from Ralph R. Thomas to Sylvia A. Henderson, and that Sylvia A. Henderson is now the record owner of such property and that such property is the subject of this action.

XIV.

That during all times concerned in this action, Audrey Cutting has been the purported owner of the property which is the subject of this action and that defendant Audrey Cutting has or may have some interest in such property but that the nature of such interest if in fact Audrey Cutting has any interest in the property, is unknown to Wolfe Hardware.

XV.

That prior to the date upon which the Wolfe Hardware furnished any materials or labor for the construction of the building upon the real property above described, defendants Sylvia A. Henderson or Audrey Cutting or Ralph Russell Thomas, also known as Ralph R. Thomas or one or more or all of such parties, entered into a contract with the defendant Russell W. Smith, the date and the exact terms of such contract being unknown to the answering defendants. That by the terms of such

contract, the defendant, Russell W. Smith, was engaged as a general contractor for the purpose of constructing a dwelling house for the defendants, Audrey Cutting or Sylvia A. Henderson or Ralph R. Thomas, also known as Ralph Russell Thomas, or one or more or all of them, upon the real property and premises above described and which is the subject of this action.

XVI.

That on or about the third day of May, 1948, Wolfe Hardware was engaged by the defendant, Russell W. Smith, as general contractor, to furnish certain goods, wares, merchandise and supplies to be used in the construction of the building upon the above-described real property and that between the third day of May, 1948, and the 10th day of June, 1948, Wolfe Hardware, at the special instance and request of Russell W. Smith, furnished certain goods, wares and merchandise and materials for the construction of such building and that such goods, wares, merchandise and materials were actually used and expended upon the above-described real property and in the construction of such building.

XVII.

That the goods, wares, merchandise and materials furnished by Wolfe Hardware in the construction of the building upon the property above described were of the reasonable and agreed value of \$199.80 in lawful money of the United States of America.

XVIII.

That no part of the said sum of \$199.80 has been paid and that there is now due, owing and unpaid to Wolfe Hardware from the defendant, Russell W. Smith, and the defendants, Audrey Cutting, Sylvia A. Henderson and Ralph Russell Thomas, also known as Ralph R. Thomas, the sum of \$199.80, after deducting all just credits and offsets.

XIX.

That demand has frequently been made by Wolfe Hardware for payment of the amount due in the sum of \$199.80 as above set forth, but that no payment thereon has been made and that there is now due and owing to Wolfe Hardware by reason of such goods, wares, merchandise and materials, and labor furnished in the construction of the building upon the real estate above described, the sum of \$199.80, together with interest on that sum at the rate of 6% per annum from the 10th day of June, 1948, until paid.

XX.

That the 10th day of June, 1948, was the last day upon which Wolfe Hardware furnished any materials, or labor for the construction of the building upon the above-described real property.

XXI.

That on the 13th day of August, 1948, and within 90 days after the last date upon which Wolfe Hardware so furnished any goods, wares, merchandise

and materials or labor as aforesaid, the said Wolfe Hardware, for the purpose of maintaining, securing and protecting its lien upon the real property above described, duly filed for record and caused to be recorded in the office of the United States Commissioner and ex-Officio Recorder for the Anchorage Recording Precinct, at Anchorage, Alaska, its statement of claim of lien upon and against the above-described premises and property which said lien was duly recorded in Book 71 of the City Records of such precinct at page 4. That a copy of such lien is hereto attached as Exhibit W and by reference is made a part hereof to the same extent as though set out in full.

XXII.

That six months have not elapsed since the date of recording the statement of claim of lien, of Wolfe Hardware as aforesaid.

XXIII.

That such claim of lien so recorded was and is duly verified by the oath of Ray Wolfe, one of the partners of the partnership, doing business as Wolfe Hardware and Furniture Company, and contains a true statement of the demands and the amount thereof due to the said Wolfe Hardware after deducting all just credits and offsets, with the name of the person who engaged the said Wolfe Hardware to furnish the goods, wares and merchandise and materials of labor, as aforesaid. That such statement contains a description of the property on

which the lien is claimed, sufficient for identification being the same property heretofore described herein and sets forth the name of the owner or reputed owner thereof and the dates when Wolfe Hardware furnished the materials, goods, wares, merchandise and supplies, including the last day thereof.

XXIV.

That the plaintiff in this action and each of the defendants therein, have or claim to have some right, interest, claim, demand or lien in, to or upon the premises and property above described, but that any such right, title, interest, claim, demand or lien is entirely secondary, subordinate and inferior to the lien of the said Wolfe Hardware as herein set forth.

XXV.

That the sum of \$13.60 is a reasonable sum to be allowed the answering defendants for the preparation and recording of their statement of lien.

XXVI.

That the sum of \$150.00 is a reasonable sum to be allowed to the answering defendants for and as their attorney's fees in this action.

Wherefore, having fully answered the complaint in intervention filed by Arthur F. Waldron and Joseph A. Columbus, co-partners, doing business under the firm name and style of Anchorage Sand and Gravel Company, the defendants, Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and

Ed Wilholth, co-partners, doing business under the firm name and style of Wolfe Hardware and Furniture, pray for judgment in this matter as follows:

1. That the plaintiffs in intervention may take nothing by their complaint in intervention.

2. That the claim of lien filed by the defendants, Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners, doing business under the firm name and style of Wolfe Hardware and Furniture Store, may be declared to be a first, prior and paramount lien against the real property which is the subject of this action and more particularly described as:

Lot 2, Block Thirty-seven "D" (37-D) of the South Addition to the townsite of Anchorage, Alaska, according to the map and plat of the Welch subdivision which map and plat is on file and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska, together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and including particularly, that certain dwelling house located thereon.

3. That plaintiffs' lien against the premises which are the subject of this action and above described may be foreclosed and that such property may be sold in the manner provided by law and according to the practice of this court, and from

the proceeds of such sale the lien of the defendants, Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe and Ed Wilholth, co-partners, doing business under the firm name and style of Wolfe Hardware and Furniture Company, may be paid, together with the costs of preparation and recording of such lien in the amount of \$13.60, together with plaintiff's costs and disbursements in this action incurred, including a reasonable attorney's fee to be set by the Court.

4. For such other and further relief as to the Court may seem meet and equitable in the premises.

DAVIS & RENFREW,

Attorneys for the Defendants, Ray Wolfe, Esther Wolfe, Robert Wolfe, Margaret Wolfe, and Ed Wilholth, Doing Business as Wolfe Hardware and Furniture Company.

By /s/ EDWARD V. DAVIS.

Duly verified.

Service acknowledged.

EXHIBIT "W"

RAY WOLFE, ESTHER WOLFE, ROBERT WOLFE, MARGARET WOLFE, and ED WILHOLTH, Co-partners, Doing Business Under the Firm Name and Style of WOLFE HARDWARE & FURNITURE,

Claimants,

vs.

RALPH RUSSELL THOMAS, RUSSELL W. SMITH, and AUDREY CUTTING,

Defendants.

CLAIM OF LIEN

Know All Men by These Presents: That claimants above named, doing business at Anchorage, Alaska, under the firm name and style of Wolfe Hardware and Furniture, have, at the special instance and request of Russell W. Smith, furnished materials in the construction of a certain building located on the hereinafter-described real estate within the Anchorage Recording Precinct, Third Judicial Division, Territory of Alaska, to wit:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the Townsite of Anchorage, Alaska, according to the map and plat of the Welch Subdivision, which map and plat is on file and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct, at Anchorage,

Alaska, together with, all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

That the name of the owner, or reputed owner, of the real property hereinabove described is Ralph Russell Thomas; that Audrey Cutting claims some right, title, or interest therein; that the residence building now on said premises was constructed by the above-named Russell W. Smith under a contract with the said Audrey Cutting, with the full knowledge and consent of the said Ralph Russell Thomas and was under construction during all the times hereinafter mentioned. That as claimants are informed and believe and so allege the fact to be, there are, or may be other persons or parties claiming some right, title or interest to the hereinbefore described property but the true names of such persons or parties are unknown to claimants.

That the reasonable price for such materials so furnished by the claimants was and is the sum of One Hundred ninety-nine and 80/100 Dollars (\$199.80), in lawful money of the United States of America; that no part of such sum has been paid; and that there is now due, owing and unpaid from the above-named defendants to the claimants the sum of One hundred ninety-nine and 80/100 Dollars (\$199.80), after deducting all just credits and offsets, and buildings in that sum.

That the materials so furnished by claimants were furnished at the special instance and request of Russell W. Smith, and that such materials were

actually used and expended upon the building above described in the construction of such building.

That said materials were so expended upon the above-described property between the 3rd day of May, 1948, and the 10th day of June, 1948, and that claimants ceased to furnish materials for use upon said building and property on the 10th day of June, 1948, and the expenditure thereof was completed on such date, and within ninety days prior to the filing of this claim of lien.

RAY WOLFE,

ESTHER WOLFE,

ROBERT WOLFE, and

ED WILHOLTH,

Co-partners, Doing Business Under the Firm Name
and Style of Wolfe Hardware & Furniture.

By /s/ RAY WOLFE,
Partner.

Duly verified.

Receipt of Copy acknowledged.

[Endorsed]: Filed January 12, 1949.

No. A-5087 and No. A-5088.

MINUTE ORDER DENYING MOTION

Now at this time upon motion of George B. Grigsby, counsel for plaintiffs in cause No. A-5087, entitled Ray Bullerdick, A. L. Baxley, Edward C. Rankin, Lee Runkle, Arden Bell and William Besser, plaintiffs, versus Ralph R. Thomas, Audrey Cutting and Russell W. Smith, defendants, and cause No. A-5088, entitled Ted Van Thiel, et al., plaintiffs, versus E. V. Fritts, et al., that above-entitled causes be set for trial at 10:00 o'clock a.m. of Monday, January 31, 1949, and with Harold H. Butcher, counsel for defendant Cutting objecting,

It Is Hereby Ordered that the above motion be, and it is hereby, denied without prejudice.

Entered January 25, 1949.

No. A-5087 and No. A-5088.

HEARING ON MOTION TO SET CAUSES FOR TRIAL

Now at this time the plaintiffs not being present but represented by their counsel, George B. Grigsby, the defendants not being present but represented by their counsel, Harold J. Butcher, the following proceedings were had to wit:

Argument to the Court was had by Harold J. Butcher, for and in behalf of the defendants.

Whereupon the Court having heard the argument of counsel and being fully and duly advised in the premises,

It Is Ordered that cause No. A-5087, entitled Ray Bullerdick, et al., plaintiffs, versus Ralph R. Thomas, defendants, and cause No. A-5088, entitled Ted Van Thiel, et al., plaintiffs, versus Ralph R. Thomas, et al., defendants, be, and it is hereby, set for trial at 10:00 o'clock a.m. of Tuesday, February 8, 1949.

Entered Jan. 28, 1949.

[Title of District Court and Cause.]

No. A-5088.

AMENDED ANSWER TO COMPLAINT
IN INTERVENTION

Comes now the defendant, Audrey Cutting, and answering for herself and on behalf of her minor daughter, Sylvia A. Henderson, admits and denies as follows:

I.

Denies each and every allegation in said complaint in intervention which has not previously been admitted or denied in the defendant's previous answer to the original complaint.

Affirmative Defense

That the defendant, Audrey Cutting, for herself and for and on behalf of Sylvia A. Henderson, a

minor, entered into a contract with a licensed contractor, one Russell W. Smith, under the terms of which the said Russell W. Smith agreed to construct the residence for the sum of Ninety-Five Hundred Dollars (\$9500.00) and that said contract personally made, on his own behalf as an independent contractor, all of the contracts for labor and/or materials set forth in the complaint and that the defendant, Audrey Cutting, for herself and for and on behalf of Sylvia A. Henderson, a minor, duly posted lien non-liability notices on the premises.

Wherefore, defendant prays that plaintiffs take nothing by their complaint in intervention and that they be hence dismissed with costs.

/s/ HAROLD J. BUTCHER,
Attorney for Defendant.

Duly verified.

[Endorsed]: Filed February 8, 1949.

[Title of District Court and Causes.]

Case No. A-5087.

Case No. A-5088.

Case No. A-5087 and A-5088.

REPLY TO SECOND AMENDED ANSWER
OF DEFENDANTS, AUDREY CUTTING
AND SYLVIA A. HENDERSON

Come now Ken Hinchey and Nadien Hinchey,

doing business as Ken Hinchey Company, one of the above-named defendants, in reply to defendants' second Amended Answer, and admit, deny and allege as follows:

I.

Deny each and every allegation set forth in paragraph I of affirmative defense of defendants' second Amended Answer except the execution of a contract between Audrey Cutting and one Russell Smith, under the terms of which said Russell W. Smith agreed to construct the residence as set forth in the said contract.

II.

Admit that the defendant, Sylvia A. Henderson, is a minor child under the age of eighteen years as set forth in paragraph II of the affirmative defense of defendants' second amended answer and that since the recording of said deed in which Ralph R. Thomas is named as grantor and Sylvia A. Henderson is named as grantee which deed purports to have been executed on the 30th day of November, 1946, and which deed is now recorded in Book 71 of the City Records of Anchorage Recording Precinct at page 21, and Sylvia A. Henderson is now the record owner of Lot 2 in Block 37-D of the South Addition to the City of Anchorage, Alaska, and deny all and every other allegation contained in said paragraph II.

Wherefore, defendants, Ken Hinchey and Nadine Hinchey, doing business as Ken Hinchey Com-

pany, pray that they be granted the relief as asked in their Answer and Cross-Complaint herein previously filed and such other and further relief as to the Court may seem meet and equitable in the premises.

DAVIS & RENFREW,
Attorneys for Ken Hinchey
Company.

By /s/ PAUL F. ROBISON.

Duly verified.

[Endorsed]: Filed February 17, 1949.

[Title of District Court and Causes.]

No. A-5087.

No. A-5088.

No. A-5087, A-5088.

No. A-5088.

No. A-5087.

No. A-5088.

No. A.-5087.

No. A-5088.

Execution

The President of the United States of America,
To the United States Marshal for the Third Division,
Territory of Alaska, Greeting:

Whereas, on the 8th day of April, 1949, the above-

named plaintiffs and intervenors recovered a Judgment and Decree in the above-entitled action and in the above-entitled Court, against the above-named defendants, which said Judgment and Decree was on the 8th day of April, 1949, recorded in the office of the Clerk of said Court in the General Journal, G-18, on page 325, and docketed in said Clerk's office, and in and by which Judgment and Decree it is Ordered, Adjudged and Decreed that the lands and premises described therein be sold at public auction as in said judgment and decree particularly set out.

Now, Therefore, you, the said Marshal, are hereby commanded and required to proceed to advertise for sale and to sell, in the manner provided by law, the premises described in said Judgment and Decree, a copy of which is hereto annexed and made a part hereof, and apply the proceeds of said sale as in said Judgment and Decree directed, and to make and file your report of said sale with the Clerk of this Court, and to do all things according to the terms and requirements of said Judgment and Decree and the provisions of the statute in such case made and provided, and make return of this Writ within sixty (60) days from the date hereof.

Witness the Honorable Anthony J. Dimond, Judge of said Court and the Seal of said Court hereto affixed this 16th day of April, 1949.

M. E. S. BRUNELLE,
Clerk.

By KATHRYN HOFF,
Deputy.

No. A-5087 and No. A-5088.

HEARING ON MOTION FOR STAY OF EXECUTION

Now at this time hearing on motion for stay of execution in cause No. A-5087, entitled Ray Bullerdick, et al, Plaintiffs, versus Ralph R. Thomas, Audrey Cutting, et al, Defendants, and cause No. A-5088, entitled Ted Van Thiel, et al, Plaintiffs, versus Ralph R. Thomas, Audrey Cutting, et al, Defendants, came on regularly before the Court, the plaintiffs and intervenors not being present but represented by George B. Grigsby, Edward V. Davis and J. L. McCarrey, Jr., the defendants not being present but represented by their counsel Harold J. Butcher, the following proceedings were had, to wit:

Argument to the Court was had by George B. Grigsby, for and in behalf of the plaintiff.

Argument to the Court was had by Edward V. Davis, for and in behalf of the Intervenor.

Argument to the Court was had by George B. Grigsby, for and in behalf of the plaintiff.

Argument to the Court was had by Harold J. Butcher, for and in behalf of the defendant.

Argument to the Court was had by Edward V. Davis, for and in behalf of the Intervenor.

Argument to the Court was had by George B. Grigsby, for and in behalf of the plaintiffs.

Whereupon the Court having heard the argument of respective counsel and being fully and duly ad-

vised in the premises, denies bond, and directs, following stipulation by and between respective counsel, the sale of subject property adjourned until 2:00 o'clock p.m. of Thursday, May 26, 1949.

Entered May 19, 1949.

No. A-5087 and No. A-5088.

HEARING ON JUSTIFICATION OF BONDSMEN

Now at this time hearing on justification of bondsmen in cause No. A-5087, entitled Ray Bullerdick, et al, Plaintiffs, versus Ralph R. Thomas, Audrey Cutting, et al, defendants, and in cause No. A-5088, entitled Ted Van Thiel, et al, Plaintiffs, versus Ralph R. Thomas, Audrey Cutting, et al, defendants, came on regularly before the Court, the plaintiff not being present but represented by their counsel, George R. Grigsby, the Intervenors not being present but represented by Edward V. Davis and J. L. McCarrey, Jr., of their counsel. The defendant, Audrey Cutting, being present and with her counsel, Harold J. Butcher. The following proceedings were had, to wit:

Argument to the Court was had by Harold J. Butcher, for and in behalf of the defendant.

Argument to the Court was had by Edward V. Davis, for and in behalf of the Intervenors.

Argument to the Court was had by Harold J. Butcher, for and in behalf of the defendant.

Marion P. Smith, being first duly sworn, testified for and in behalf of the Court.

Don H. Goodman, being first duly sworn, testified for and in behalf of the Court.

Whereupon the Court having heard the testimony and the arguments of respective counsel and being fully and advised in the premises, refused approval of bond both as to form and as to sureties.

Entered May 20, 1949.

MARSHAL'S RETURN OF EXECUTION

United States Marshal's Office
Territory of Alaska, Third Division.

I, Paul C. Herring, United States Marshal for the Third Division, for the Territory of Alaska, do hereby certify:

That I received the within and annexed writ of execution on the 18th day of April, 1949, and by virtue and in pursuance thereof I advertised the property described in the judgment herein and as follows, to-wit:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file and of record in the office of the United States Commissioner and ex-officio Recorder for Anchorage Precinct at Anchorage, Alaska, together with the residence building thereon situated,

to be sold at public auction at the Southwest entrance to the Federal Building at Anchorage, Alaska, on 19th day of May, 1949, at the hour of Two o'clock p.m., that on said date, day and hour, pursuant to stipulation of all the parties to said action said sale was adjourned until the 26th day of May, 1949, at the hour of Two o'clock p.m. of said day.

That previous to said sale I cause due and legal notice thereof to be posted for the period of four weeks in three public places in the City of Anchorage, Alaska, and all within five miles of the place of said sale as stated aforesaid, to-wit, at the Post Office in the Federal Building, in the Office of United States Commissioner in the Federal Building, in the Federal Building and in the Federal Jail, and caused said notice to be published once a week for five successive weeks, to-wit, on the 19th and 26th of April, 1949, and on the 3rd, 10th and 17th of May, 1949, in the Anchorage Daily News, a daily newspaper published at Anchorage, Alaska, and nearest to the place of sale. That a true copy of said notice of sale so posted and published is together with the proof of publication thereof in the said Anchorage Daily News, hereunto attached and made a part of this return.

That on the 26th day of May, 1949, the day fixed for the sale of said premises as aforesaid and on which day said premises were sold, I attended at the time and place fixed for said sale and exposed the said premises for sale at public auction accord-

ing to law to the highest bidder for cash, and there being no other bidders, the said premises were thereupon struck off by me and sold to George B. Grigsby as Trustee for the judgment creditors for the sum of Fifteen Thousand Dollars (\$15,000.00) to be paid by said amount less my fees, commissions and expenses of sale being credited on said judgment.

I further certify that my fees, commissions and expenses of sale, amounting to the sum of Three Hundred and Seventy-Eight Dollars and Fifty Cents (\$378.50) were paid to me in cash by the said George B. Grigsby as said Trustee, leaving a balance of Fourteen Thousand Six Hundred and Twenty-one Dollars and Fifty Cents (\$14,621.50) to be credited upon said judgment, and that I have delivered to the said purchaser a Certificate of Sale of said premises, and that said premises so sold as aforesaid are subject to redemption as provided by law.

Dated this 9th day of June, 1949.

/s/ PAUL C. HERRING,
U. S. Marshal.

By OSCAR OLSON,
Deputy.

[Endorsed]: Filed June 9, 1949.

No. A-5087 and A-5088.

MINUTE ORDER EXTENDING TIME TO
DOCKET CAUSE WITH COURT OF AP-
PEALS

Now at this time, upon the motion of Harold J. Butcher, counsel for Defendant Audrey Cutting, with George B. Grigsby, counsel for plaintiff, objecting thereto,

It Is Ordered that Defendant Cutting be, and she is hereby given 30 days from this date to docket cause No. A-5087, entitled Ray Bullerdick, et al, plaintiffs versus Ralph R. Thomas, et al., defendants, and cause No. 5088, entitled Ted Van Thiel, et al., Plaintiffs, versus Ralph R. Thomas, Audrey Cutting, et al., defendants, with the Court of Appeals, Ninth Circuit.

Entered June 14, 1949.

[Title of District Court and Causes.]

No. A-5087.

No. A-5088.

Nos. A-5087 and A-5088.

No. A-5088.

No. A-5087.

No. A-5088.

No. A-5087.

Nos. A-5087 and A-5088.

MOTION FOR CONFIRMATION

Comes now the above named plaintiffs and intervenors, and the above-named defendants, with the exception of defendants, Audrey Cutting, Ralph R. Thomas and Sylvia A. Henderson, by and through their attorneys, and by and through George B. Grigsby, acting as Trustee for the creditors, and pray that the sale under Judgment and Decree of Foreclosure entered in the above entitled matters may be confirmed in the manner provided by law, and that Marshal's Deed be issued to the purchaser forthwith.

The property which is the subject of the above entitled actions and which was sold under such Judgment and Decree is situated in the City of Anchorage, Third Division, Territory of Alaska and is more particularly described as:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska:

Together with the residence building thereon situated.

This motion is based upon the Marshals' return on execution dated on the 9th day of June, 1949 and filed in this action and upon the records and files in this action.

Dated at Anchorage, Alaska, this 12th day of July, 1949.

/s/ GEORGE B. GRIGSBY,

As Trustee for the Creditors and Acting for All Attorneys for Plaintiffs, Intervenors and Defendants, with the Exception of Defendants, Audrey Cutting, Sylvia A. Henderson and Ralph B. Thomas.

Receipt of copy acknowledged.

[Endorsed]: Filed July 12, 1949.

[Title of District Court and Causes.]

No. A-5087.

No. A-5088.

No. A-5087 and No. A-5088.

No. A-5088.

No. A-5087.

No. A-5088.

No. A-5087.

No. A-5087, A-5088.

ORDER CONFIRMING SALE OF REAL PROPERTY UNDER JUDGMENT AND DECREE OF FORECLOSURE

This matter came on regularly for hearing upon motion of George B. Grigsby, as Trustee for the various creditors. The plaintiffs, the intervenors and all of the defendants, except Audrey Cutting, Sylvia A. Henderson and Ralph R. Thomas, having concurred in such motion, and such motion having requested confirmation of sale of certain real property hereinafter more particularly described under Judgment and Decree of Foreclosure issued in this matter in favor of all parties, except Audrey Cutting, Sylvia A. Henderson and Ralph R. Thomas, and against the real property hereinafter described, and that marshal's deed be forthwith issued conveying the property to George B. Grigsby, as Trustee.

The plaintiffs and intervenors and the defendants, with the exception of Audrey Cutting, Sylvia A. Henderson and Ralph R. Thomas, were present through their attorneys, and through George B. Grigsby, as Trustee, and the defendant, Audrey Cutting, was personally present with Harold J. Butcher, her attorney, and the defendant, Sylvia A. Henderson, was present through Harold J. Butcher, her attorney;

The Court proceeded to examine the return of the Deputy United States Marshal concerning the sale of hte property hereinafter described, and to examine the other records and files in this action, and to hear the proofs offered in support of the motion; and

It appearing to the Court that under and by virtue of Judgment and Decree of Foreclosure entered and issued out of this Court in the above entitled matter. and execution issued thereon the Deputy United States Marshal at Anchorage, Third Judicial Division, Territory of Alaska, did notice for sale the property hereinafter described for the 19th day of May, 1949, at the hour of 2 o'clock p.m., and that at such time, pursuant to Stipulation of all the parties to the action, the sale was adjourned until the 26th day of May, 1949, at the hour of 2 o'clock p.m.; and

It further appearing that on the 26th day of May, 1949, at the hour of 2 o'clock p.m. the United States Marshal for the Third Division, Territory of Alaska, did attend at the place where the sale

was to be held, to-wit: At the Southwest entrance of the Federal Building at Anchorage, Alaska, and at that time did sell such property, and that upon such sale George B. Grigsby, as Trustee for the judgment creditors, became the purchaser of said property for the sum of Fifteen Thousand Dollars (\$15,000.00), which included the Marshal's fees and costs amounting to Three Hundred Seventy-eight and 50/100 Dollars (\$378.50); and

It appearing to the Court that notice of the sale was given in the manner provided by law and that said sale was fairly and legally conducted and that the real estate hereinafter described consisted of one known lot or parcel of land, and that the sum of Fifteen Thousand Dollars (\$15,000.00) was the highest and best bid made for such property; and

It further appearing that the purchaser has received a Certificate of Sale to the property as Trustee for the judgment creditors, and that as such Trustee, is entitled to have such sale confirmed by this Court.

Now, Therefore, the Court being fully advised in the premises

It Is Hereby Ordered, Adjudged and Decreed that the sale under execution of the property hereinafter described to George B. Grigsby, Trustee for the Judgment Creditors, shall be, and the same is hereby confirmed.

It Is Further Ordered that the Marshal shall proceed to issue a Marshal's Deed conveying the property hereinafter described to such Trustee at

the expiration of one year from the date of this Order, if no redemption has been had.

The property sold as aforesaid, and which is the subject of this action, is located in the City of Anchorage, Third Division, Territory of Alaska, and is more particularly described as follows:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska.

Done in open Court at Anchorage, Alaska, this 20 day of July, 1949.

/s/ ANTHONY J. DIMOND,
District Judge.

Entered July 20, 1949.

Receipt of copy acknowledged.

[Endorsed]: Filed July 20, 1949.

[Title of District Court and Causes.]

No. A-5087.

No. A-5088.

Nos. A-5087 and A-5088.

No. A-5088.

No. A-5087.

No. A-5088.

No. A-5087.

Nos. A-5087 and A-5088.

NOTICE OF SALE

Under and by virtue of an Execution issued out of the above-entitled Court on the 16th day of April, 1949 on a Judgment and Decree heretofore and on the 8th day of April, 1949 rendered in said Court in favor of the above-named plaintiffs and intervenors, and against the above-named defendants, which said Judgment and Decree was, on the said 8th day of April, 1949, recorded in the Office of the Clerk of said Court in the General Journal, G-18 at Page 325, and docketed in said Clerk's office, I am commanded to sell all that certain premises described as follows, to-wit:

Lot Two (2) in Block Thirty-seven D (37-D) of the South Addition to the City of Anchorage, Alaska, according to the official map and plat thereof on file and of record in the Office of the

United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska, together with the residence building situated thereon.

Notice is hereby given, that on the 19th day of May, 1949 at 2:00 o'clock p.m. of that date at the Southwest front entrance of the Federal Building in Anchorage, Alaska, I will, in obedience to said Writ of Execution, sell the above described premises to satisfy said Judgment and Decree, with interest and costs and costs and expenses of sale, to the highest and best bidder for cash, in current lawful money of the United States.

Dated this 18th day of April, 1949.

JAMES H. PATTERSON,
United States Marshal.

By /s/ OSCAR OLSON,
Deputy.

CERTIFICATE OF CLERK TO
TRANSCRIPT OF RECORD

United States of America,
Territory of Alaska, Third Division—ss :

I, M. E. S. Brunelle, Clerk of the District Court for the Territory of Alaska, Third Division, do hereby certify that the foregoing and hereto annexed 114 pages, numbered from 1 to 114, inclusive, are a full, true and correct transcript of the records and files of the proceedings in the above entitled cause as the same appears on the records and files in my office; that this transcript is made in accordance with the designation of record filed in my office on the 2nd day of July, 1949; that the foregoing transcript has been prepared, examined and certified to by me, and the costs thereof, amounting to \$37.80, has been paid to me by Harold J. Butcher, counsel for Defendants Cuttings and Henderson herein.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court this 3rd day of August, 1949.

[Seal] /s/ M. E. S. BRUNELLE,
Clerk of the District Court, Territory of Alaska,
Third Division.

